

Department of Agriculture

Pt. 1710

projects that evidence significant funding or contributed property, equipment or other in kind support for the project may be awarded points for this criterion where the aggregate value of these contributions exceed 25 percent of the annual funding operations.

(g) *Additional priority considerations.* The grant announcement may provide for additional points to be awarded to projects that advance identified Agency priority interests under this program.

§ 1709.217 Grant award.

(a) *Notification of applicants.* The Agency will notify all applicants in writing whether or not they have been selected for a grant award.

(b) *Letter of conditions.* The Agency will notify a selected applicant in writing, setting out the amount of grant approved and the conditions under which the grant will be made.

(c) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the selected applicant must complete, sign and return the Agency's "Letter of Intent to Meet Conditions," or, if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the letter of conditions by the applicant before the application will be further processed.

(d) *Grant agreement.* The Agency and the grantee must execute a grant agreement acceptable to the Agency prior to the advance of funds.

§§ 1709.218–1709.300 [Reserved]

Subparts D–F [Reserved]

Subpart G—Recovery of Financial Assistance Used for Unauthorized Purposes

§ 1709.601 Policy.

This subpart prescribes the policies of the Rural Utilities Service (RUS) when it is subsequently determined that the recipient of an Assistance to High Energy Cost Rural Communities program loan or grant was not eligible for all or part of the financial assistance received or that the assistance re-

ceived was used for unauthorized purposes. It is the policy of the Agency that when assistance under this part has been received by an ineligible recipient or used for unauthorized purposes the Agency shall initiate appropriate actions to recover from the recipient the sum that is determined to be ineligible or used for unauthorized purposes, regardless of amount, unless any applicable statute of limitation has expired. The Agency shall make full use of available authority and procedures, including but not limited to those available under 2 CFR part 200, as adopted by USDA through 2 CFR part 400.

[70 FR 5351, Feb. 2, 2005, as amended at 79 FR 76002, Dec. 19, 2014]

§§ 1709.602–1709.999 [Reserved]

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO ELECTRIC LOANS AND GUARANTEES

Subpart A—General

Sec.

- 1710.1 General statement.
- 1710.2 Definitions and rules of construction.
- 1710.3 Form and bulletin revisions.
- 1710.4 Exception authority.
- 1710.5 Availability of forms.
- 1710.6 Applicability of certain provisions to completed loan applications.
- 1710.7–1710.49 [Reserved]

Subpart B—Types of Loans and Loan Guarantees

- 1710.50 Insured loans.
- 1710.51 Direct loans.
- 1710.52 Loan guarantees.
- 1710.53–1710.99 [Reserved]

Subpart C—Loan Purposes and Basic Policies

- 1710.100 General.
- 1710.101 Types of eligible borrowers.
- 1710.102 Borrower eligibility for different types of loans.
- 1710.103 Area coverage.
- 1710.104 Service to non-RE Act beneficiaries.
- 1710.105 State regulatory approvals.
- 1710.106 Uses of loan funds.
- 1710.107 Amount lent for acquisitions.
- 1710.108 Mergers and consolidations.
- 1710.109 Reimbursement of general funds and interim financing.

§ 1710.1

- 1710.110 Supplemental financing.
- 1710.111 Refinancing.
- 1710.112 Loan feasibility.
- 1710.113 Loan security.
- 1710.114 TIER, DSC, OTIER and ODSC requirements.
- 1710.115 Final maturity.
- 1710.116 [Reserved]
- 1710.117 Environmental review requirements.
- 1710.118 [Reserved]
- 1710.119 Loan processing priorities.
- 1710.120 Construction standards and contracting.
- 1710.121 Insurance requirements.
- 1710.122 Equal opportunity and non-discrimination.
- 1710.123 Debarment and suspension.
- 1710.124 Uniform Relocation Act.
- 1710.125 Restrictions on lobbying.
- 1710.126 Federal debt delinquency.
- 1710.127 Drug free workplace.
- 1710.128–1710.149 [Reserved]

Subpart D—Basic Requirements for Loan Approval

- 1710.150 General.
- 1710.151 Required findings for all loans.
- 1710.152 Primary support documents.
- 1710.153 Additional requirements and procedures.
- 1710.154 Board of Director Resolutions.
- 1710.155–1710.199 [Reserved]

Subpart E—Load Forecasts

- 1710.200 Purpose.
- 1710.201 General.
- 1710.202 Requirement to prepare a load forecast—power supply borrowers.
- 1710.203 Requirement to prepare a load forecast—distribution borrowers.
- 1710.204 [Reserved]
- 1710.205 Minimum requirements for all load forecasts.
- 1710.206 Requirements for load forecasts prepared pursuant to a load forecast work plan.
- 1710.207 RUS criteria for load forecasts by distribution borrowers.
- 1710.208 RUS criteria for load forecasts by power supply borrowers and by distribution borrowers.
- 1710.209 Requirements for load forecast work plans.
- 1710.210 Waiver of requirements or approval criteria.
- 1710.211–1710.249 [Reserved]

Subpart F—Construction Work Plans and Related Studies

- 1710.250 General.
- 1710.251 Construction work plans—distribution borrowers.
- 1710.252 Construction work plans—power supply borrowers.

7 CFR Ch. XVI (1–1–21 Edition)

- 1710.253 Engineering and cost studies—addition of generation capacity.
- 1710.254 [Reserved]
- 1710.255 Energy efficiency work plans—energy efficiency borrowers.
- 1710.256–1710.299 [Reserved]

Subpart G—Long-Range Financial Forecasts

- 1710.300 General.
- 1710.301 Financial forecasts—distribution borrowers.
- 1710.302 Financial forecasts—power supply borrowers.
- 1710.303 Power cost studies—power supply borrowers.
- 1710.304–1710.349 [Reserved]

Subpart H—Energy Efficiency and Conservation Loan Program

- 1710.400 Purpose.
- 1710.401 RUS policy.
- 1710.402 Scope.
- 1710.403 General.
- 1710.404 Definitions.
- 1710.405 Eligible energy efficiency and conservation programs.
- 1710.406 Eligible activities and investments.
- 1710.407 Business plan.
- 1710.408 Quality assurance plan.
- 1710.409 Loan provisions.
- 1710.410 Application documents.
- 1710.411 Analytical support documentation.
- 1710.412 Borrower accounting methods, management reporting, and audits.
- 1710.413 Compliance with other laws and regulations.
- 1710.414–1710.499 [Reserved]

Subpart I—Application Requirements and Procedures for Insured and Guaranteed Loans

- 1710.500 Initial contact.
- 1710.501 Loan application documents.
- 1710.502–1710.503 [Reserved]
- 1710.504 Additional requirements.
- 1710.505 Supplemental financing documents.
- 1710.506 Loan approval.
- 1710.507 Loan documents.

AUTHORITY: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

SOURCE: 57 FR 1053, Jan. 9, 1992, unless otherwise noted.

Subpart A—General

§ 1710.1 General statement.

(a) This part establishes general and pre-loan policies and requirements that apply to both insured and guaranteed loans to finance the construction and improvement of electric facilities in

Department of Agriculture

§ 1710.2

rural areas, including generation, transmission, and distribution facilities.

(b) Additional pre-loan policies, procedures, and requirements that apply specifically to guaranteed and/or insured loans are set forth elsewhere:

(1) For guaranteed loans in 7 CFR part 1712 and RUS Bulletins 20-22, 60-10, 86-3, 105-5, and 111-3, or the successors to these bulletins; and

(2) For insured loans in 7 CFR part 1714 and in RUS Bulletins 60-10, 86-3, 105-5, and 111-3, or the successors to these bulletins.

(c) This part supersedes those portions of the following RUS Bulletins and supplements that are in conflict.

20-5 Extensions of Payments of Principal and Interest

20-20 Deferment of Principal Repayments for Investment in Supplemental Lending Institutions

20-22 Guarantee of Loans for Bulk Power Supply Facilities

20-23 Section 12 Extensions for Energy Resources Conservation Loans

60-10 Construction Work Plans, Electric Distribution Systems

86-3 Headquarters Facilities for Electric Borrowers

105-5 Financial Forecast-Electric Distribution Systems

111-3 Power Supply Surveys

120-1 Development, Approval, and Use of Power Requirements Studies

(d) When parts 1710, 1712, and 1714 are published in final form, the bulletins cited in paragraph (b) of this section will be rescinded, in whole or in part, or revised.

[57 FR 1053, Jan. 9, 1992, as amended at 58 FR 66262, Dec. 20, 1993]

§ 1710.2 Definitions and rules of construction.

(a) *Definitions.* For the purpose of this part, the following terms shall have the following meanings:

Administrator means the Administrator of RUS or his or her designee.

Approved load forecast means a load forecast that RUS has determined is current for RUS purposes and has been approved by RUS pursuant to 7 CFR part 1710, subpart E.

Approved load forecast work plan means a load forecast work plan that RUS has determined is current for RUS' purposes and has been approved pursuant to 7 CFR part 1710, subpart E.

APRR means Average Adjusted Plant Revenue Ratio calculated as a simple average of the adjusted plant revenue ratios for 1978, 1979 and 1980 as follows:

$$APRR = \frac{A + B}{C - D}$$

where:

A = Distribution (plant), which equals Part E, Line 14(e) of RUS Form 7;

B = General Plant, which equals Part E, Line 24(e) of RUS Form 7;

C = Operating Revenue and Patronage Capital, which equals Part A, Line 1 of RUS Form 7; and

D = Cost of Power, which equals the sum of Part A, Lines 2, 3, and 4 of RUS Form 7.

Area Coverage means the provision of adequate electric service to the widest practical number of rural users in the borrower's service area during the life of the loan.

Borrower means any organization that has an outstanding loan made or guaranteed by RUS for rural electrification, or that is seeking such financing.

Bulk Transmission Facilities means the transmission facilities connecting power supply facilities to the subtransmission facilities, including both the high and low voltage sides of the transformer used to connect to the subtransmission facilities, as well as related supervisory control and data acquisition systems.

Call provision has the same meaning as "prepayment option".

Consolidation means the combination of 2 or more borrower or nonborrower organizations, pursuant to state law, into a new successor organization that takes over the assets and assumes the liabilities of those organizations.

§ 1710.2

7 CFR Ch. XVI (1-1-21 Edition)

Consumer means a retail customer of electricity, as reported on RUS Form 7, Part R, Lines 1-7.

Demand side management (DSM) means the deliberate planning and/or implementation of activities to influence Consumer use of electricity provided by a distribution borrower to produce beneficial modifications to the system load profile. Beneficial modifications to the system load profile ordinarily improve load factor or otherwise help in utilizing electric system resources to best advantage consistent with acceptable standards of service and lowest system cost. Load profile modifications are characterized as peak clipping, valley filling, load shifting, strategic conservation, strategic load growth, and flexible load profile. (See, for example, publications of the Electric Power Research Institute (EPRI), 3412 Hillview Avenue, Palo Alto, CA 94304, especially "Demand-Side Management Glossary" EPRI TR-101158, Project 1940-25, Final Report, October 1992.) DSM includes energy conservation programs.

Distribution Borrower means a borrower that sells or intends to sell electric power and energy at retail in rural areas.

Distribution Facilities means all electrical lines and related facilities beginning at the consumer's meter base, and continuing back to and including the distribution substation.

Distributed generation is the generation of electricity by a sufficiently small electric generating system as to allow interconnection of the electric generating system near the point of service at distribution voltages including points on the customer side of the meter. A distributed generating system may be operated in parallel or independent of the electric power system. A distributed generating system may be fueled by any source, including but not limited to renewable energy sources. A distributed generation project may include one or more distributed generation systems.

DSC means Debt Service Coverage of the borrower calculated as:

$$DSC = \frac{A + B + C}{D}$$

Where:

All amounts are for the same calendar year and are based on the RUS system of accounts and RUS Forms 7 and 12. References to line numbers in the RUS Forms 7 and 12 refer to the June 1994 version of RUS Form 7 and the December 1993 version of RUS Form 12, and will apply to corresponding information in future versions of the forms;

A = Depreciation and Amortization Expense of the borrower, which equals Part A, Line 12 of RUS Form 7 (distribution borrowers) or Section A, Line 20 of RUS Form 12a (power supply borrowers);

B = Interest expense on total long-term debt of the borrower, which equals Part A, Line 15 of RUS Form 7 or Section A, Line 22 of RUS Form 12a, except that interest expense shall be increased by $\frac{1}{3}$ of the amount, if any, by which restricted rentals of the borrower (Part M, Line 3 of RUS Form 7 or Section K, Line 4 of RUS Form 12h) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets] or RUS Form 12a, Section B, Line 38 [Total Margins & Equities] less Line 28 [Regulatory Assets]);

C = Patronage Capital or Margins of the borrower, which equals Part A, Line 28 of RUS Form 7 or Section A, Line 35 of RUS Form 12a; and

D = Debt Service Billed (RUS + other), which equals the sum of all payments of principal and interest required to be made on account of total long-term debt of the borrower during the calendar year, plus $\frac{1}{3}$ of the amount, if any, by which restricted rentals of the borrower (Part M, Line 3 of RUS Form 7 or Section K, Line 4 of RUS Form 12h) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets] or RUS Form 12a, Section B, Line 38 [Total Margins & Equities] less Line 28 [Regulatory Assets]);

DSM activities means activities of the type referred to in §1710.354(f).

DSM plan means a plan that describes the implementation at the distribution level of the DSM activities identified in the integrated resource plan as having positive net benefits. See §1710.357.

Electric system means all of the borrower's interests in all electric production, transmission, distribution, conservation, load management, general plant and other related facilities, equipment or property and in any mine, well, pipeline, plant, structure or

Department of Agriculture

§ 1710.2

other facility for the development, production, manufacture, storage, fabrication or processing of fossil, nuclear, or other fuel or in any facility or rights with respect to the supply of water, in each case for use, in whole or in major part, in any of the borrower's generating plants, including any interest or participation of the borrower in any such facilities or any rights to the output or capacity thereof, together with all lands, easements, rights-of-way, other works, property, structures, contract rights and other tangible and intangible assets of the borrower in each case used or useful in such electric system.

Eligible Energy Efficiency and Conservation Programs (Eligible EE Program) means an energy efficiency and conservation program that meets the requirements of subpart H of this part.

Equity means total margins and equities, which equals Part C, Line 33 of RUS Form 7 (distribution borrowers) or Section B, Line 34 of RUS Form 12a (power supply borrowers).

Final maturity means the final date on which all outstanding principal and accrued interest on an electric loan is due and payable.

Five percent hardship rate means an interest rate of 5 percent applicable to a hardship rate loan.

Fund advance period means the period of time during which the Government may advance loan funds to the borrower. See 7 CFR 1714.56.

Generation Facilities means the generating plant and related facilities, including the building containing the plant, all fuel handling facilities, and the stepup substation used to convert the generator voltage to transmission voltage, as well as related energy management (dispatching) systems.

Hardship rate loan means a loan made at the 5 percent hardship rate pursuant to 7 CFR 1714.8.

Insured Loan means a loan made pursuant to Section 305 of the RE Act, and may include a direct loan made under Section 4 of the RE Act.

Integrated Resources Plan (IRP) means a plan resulting from the planning and selection process for new energy resources that evaluates the benefits and costs of the full range of alternatives, including new generating capacity,

power purchases, DSM programs, system operating efficiency, and renewable energy systems.

Interest rate cap means a maximum interest rate of 7 percent applicable to certain municipal rate loans as set forth in § 1710.7.

Interest rate term means a period of time selected by the borrower for the purpose of determining the interest rate on an advance of funds. See 7 CFR 1714.6.

Load forecast means the thorough study of a borrower's electric loads and the factors that affect those loads in order to determine, as accurately as practicable, the borrower's future requirements for energy and capacity.

Load forecast work plan means the plan that contains the resources, methods, schedules, and milestones to be used in the preparation and maintenance of a load forecast.

Loan means any loan made or guaranteed by RUS.

Loan Contract means the agreement, as amended, supplemented, or restated from time to time, between a borrower and RUS providing for loans made or guaranteed pursuant to the RE Act.

Loan Feasibility means that the borrower has the capability of repaying the loan in full as scheduled, in accordance with the terms of the mortgage, note, and loan contract.

Loan Guarantee means a loan guarantee made by RUS pursuant to the RE Act.

Loan period means the period of time during which the facilities will be constructed not to exceed the time identified in the Loan note, as approved.

Merger means the combining, pursuant to state law, of borrower or nonborrower organizations into an existing survivor organization that takes over the assets and assumes the liabilities of the merged organizations.

Mortgage means any and all instruments creating a lien on or security interest in the borrower's assets in connection with loans or guarantees under the RE Act.

Municipal rate loan means a loan made at a municipal interest rate pursuant to 7 CFR 1714.5.

ODSC means Operating Debt Service Coverage of the electric system calculated as:

$$\text{ODSC} = \frac{A + B + C}{D}$$

Where:

All amounts are for the same calendar year and are based on the RUS system of accounts and RUS Form 7. References to line numbers in the RUS Form 7 refer to the June 1994 version of the form, and will apply to corresponding information in future versions of the form;

A = Depreciation and Amortization Expense of the electric system, which usually equals Part A, Line 12 of RUS Form 7;

B = Interest expense on total long-term debt of the electric system, which usually equals Part A, Line 15 of RUS Form 7, except that such interest expense shall be increased by $\frac{1}{3}$ of the amount, if any, by which restricted rentals of the electric system (usually Part M, Line 3 of RUS Form 7) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets]);

C = Patronage Capital & Operating Margins of the electric system, which usually equals Part A, Line 20 of RUS Form 7, plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System; and

D = Debt Service Billed (RUS + other), which equals the sum of all payments of principal and interest required to be made on account of total long-term debt of the electric system during the calendar year, plus $\frac{1}{3}$ of the amount, if any, by which restricted rentals of the Electric System (usually Part M, Line 3 of RUS Form 7) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets]).

Off-grid renewable energy system is a renewable energy system not interconnected to an area electric power system (EPS). An off-grid renewable energy system in areas without access to an area EPS may include energy consuming devices and electric wiring to provide for more effective or more efficient use of the electricity produced by the system.

On-grid renewable energy system is a renewable energy system interconnected to an area electric power system (EPS) through a normally open or normally closed device. It can be interconnected to the EPS on either side of a customer's meter.

Ordinary Replacement means replacing one or more units of plant, called "retirement units", with similar units when made necessary by normal wear and tear, damage beyond repair, or obsolescence of the facilities.

OTIER means Operating Times Interest Earned Ratio of the electric system calculated as:

$$\text{OTIER} = \frac{A + B}{A}$$

Where:

All amounts are for the same calendar year and are based on the RUS system of accounts and RUS Form 7. References to line numbers in the RUS Form 7 refer to the June 1994 version of the form, and will apply to corresponding information in future versions of the form;

A = Interest expense on total long-term debt of the electric system, which usually equals Part A, Line 15 of RUS Form 7, except that such interest expense shall be increased by $\frac{1}{3}$ of the amount, if any, by which restricted rentals of the electric system (usually Part M, Line 3 of RUS Form 7) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets]); and

B = Patronage Capital & Operating Margins of the electric system, which usually equals Part A, Line 20 of RUS Form 7, plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System.

Power requirements study (PRS) has the same meaning as load forecast.

Power Supply Borrower means a borrower that sells or intends to sell electric power at wholesale to distribution or power supply borrowers pursuant to RUS wholesale power contracts.

Prepayment option means a provision included in the loan documents to allow the borrower to prepay all or a portion of an advance on a municipal rate loan on a date other than a rollover maturity date. See 7 CFR 1714.9.

PRR means Plant Revenue Ratio calculated as:

$$\text{PRR} = \frac{A}{B - C}$$

where:

A = Total Utility Plant, which equals Part C, Line 3 of RUS Form 7;

Department of Agriculture

§ 1710.2

B = Operating Revenue and Patronage Capital, which equals Part A, Line 1 of RUS Form 7; and

C = Cost of Power, which equals the sum of Part A, Lines 2, 3, and 4 of RUS Form 7.

PRS work plan has the same meaning as load forecast work plan.

RE Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

RE Act beneficiary means a person, business, or other entity that is located in a rural area.

REA means the Rural Electrification Administration formerly an agency of the United States Department of Agriculture and predecessor agency to RUS with respect to administering certain electric and telephone loan programs.

Renewable energy system is an energy conversion system fueled from any of the following energy sources: Solar, wind, hydropower, biomass, or geothermal. Any of these energy sources may be converted to heat or electricity, provided heat is a by-product of electricity generation. Non-renewable energy sources may be used by a renewable energy system for incidental and necessary means such as, but not limited to, system start up, flame stabilization, continuity of system processes, or reduction of the moisture content of renewable fuels. Energy from bio-mass may be converted from any organic matter available on a renewable basis, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, aquatic plants, animal wastes, municipal wastes, and other waste materials.

Retirement Unit means a substantial unit of property, which when retired, with or without being replaced, is accounted for by removing its book cost from the plant account.

Rollover maturity date means the last day of an interest rate term.

Rural area means—

(i) Any area of the United States, its territories and insular possessions (including any area within the Federated States of Micronesia, the Marshall Islands, and the Republic of Palau) other than a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants; and

(ii) Any area within a service area of a borrower for which a borrower has an outstanding loan as of June 18, 2008, made under titles I through V of the Rural Electrification Act of 1936 (7 U.S.C. 901-950bb). For initial loans to a borrower made after June 18, 2008, the “rural” character of an area is determined at the time of the initial loan to furnish or improve service in the area.

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture established pursuant to Section 232 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354, 108 Stat. 3178), successor to REA with respect to administering certain electric and telephone programs. See 7 CFR 1700.1.

Subtransmission Facilities means the transmission facilities that connect the high voltage side of the distribution substation to the low voltage side of the bulk transmission or generating facilities, as well as related supervisory control and data acquisition facilities.

System Improvement means the change or addition to electric plant facilities to improve the quality of electric service or to increase the quantity of electric power available to RE Act beneficiaries.

TIER means Times Interest Earned Ratio of the borrower calculated as:

$$\text{TIER} = \frac{A + B}{A}$$

Where:

All amounts are for the same calendar year and are based on the RUS system of accounts and RUS Forms 7 and 12. References to line numbers in the RUS Forms 7 and 12 refer to the June 1994 version of RUS Form 7 and the December 1993 version of RUS Form 12, and will apply to corresponding information in future versions of the forms;

A = Interest expense on total long-term debt of the borrower, which equals Part A, Line 15 of RUS Form 7 or Section A, Line 22 of RUS Form 12a, except that interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the borrower (Part M, Line 3 of RUS Form 7 or Section K, Line 4 of RUS Form 12h) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets] or RUS Form 12a,

§ 1710.3

Section B, Line 38 [Total Margins & Equities] less Line 28 [Regulatory Assets]); and

B = Patronage Capital or Margins of the borrower, which equals Part A, Line 28 of RUS Form 7 or Section A, Line 35 of RUS Form 12a.

Total Assets means Part C, Line 26 of RUS Form 7 (distribution borrowers) or Section B, Line 27 of RUS Form 12a (power supply borrowers).

Total Utility Plant means Part C, Line 3 of RUS Form 7 (distribution borrowers) or Section B, Line 27 of RUS Form 12a (power supply borrowers).

Transmission Facilities means all electrical lines and related facilities, including certain substations, used to connect the distribution facilities to generation facilities. They include bulk transmission and subtransmission facilities.

Urban area is defined as any area not considered a rural area per the definition contained in this subpart.

Urbanized area means an urbanized area as defined by the Bureau of the Census in notices published periodically in the FEDERAL REGISTER. Generally an urbanized area is characterized as an area that comprises a place and the adjacent densely settled territory that together have a minimum population of 50,000 people.

(b) *Rules of Construction.* Unless the context otherwise indicates, “includes” and “including” are not limiting, and “or” is not exclusive. The terms defined in paragraph (a) of this part include the plural as well as the singular, and the singular as well as the plural.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 58 FR 66263, Dec. 20, 1993; 59 FR 495, Jan. 4, 1994; 59 FR 66440, Dec. 27, 1994; 60 FR 3730, Jan. 19, 1995; 60 FR 67400, Dec. 29, 1995; 65 FR 14786, Mar. 20, 2000; 68 FR 37953, June 26, 2003; 74 FR 56543, Nov. 2, 2009; 78 FR 73365, Dec. 5, 2013; 84 FR 32610, July 9, 2019]

§ 1710.3 Form and bulletin revisions.

References in this part to RUS or REA forms or line numbers in RUS or REA forms are based on RUS or REA Form 7 and Form 12 dated December 1992, unless otherwise indicated. These references will apply to corresponding information in future versions of the forms. The terms “RUS form”, “RUS standard form”, “RUS specification”,

7 CFR Ch. XVI (1–1–21 Edition)

and “RUS bulletin” have the same meanings as the terms “REA form”, “REA standard form”, “REA specification”, and “REA bulletin”, respectively, unless otherwise indicated.

[59 FR 66440, Dec. 27, 1994]

§ 1710.4 Exception authority.

Consistent with the RE Act and other applicable laws, the Administrator may waive or reduce any requirement imposed by this part or other RUS regulations on an electric borrower, or a lender whose loan is guaranteed by RUS, if the Administrator determines that imposition of the requirement would adversely affect the Government’s financial interest.

§ 1710.5 Availability of forms.

Information about the availability of RUS forms and publications cited in this part is available from Administrative Services Division, Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250–1500. These RUS forms and publications may be reproduced.

§ 1710.6 Applicability of certain provisions to completed loan applications.

(a) Certain new or revised policies and requirements set forth in this part, which are listed in this paragraph, shall not apply to a pending loan application that has been determined by RUS to be complete as of January 9, 1992, the date of publication of such policies and requirements in the FEDERAL REGISTER. This exception does not apply to loan applications received after said date, nor to incomplete applications pending as of said date. This exception applies only to the following provisions:

(1) Paragraph 1710.115(b)—with respect to limiting loan maturities to the expected useful life of the facilities financed;

(2) Section 1710.116—with respect to the requirement to develop and follow an equity development plan;

(3) Paragraph 1710.151(f)—with respect to the borrower providing satisfactory evidence that a state regulatory authority will allow the facilities to be included in the rate base or

Department of Agriculture

§ 1710.51

otherwise allow sufficient revenues to repay the loan;

(4) Paragraphs 1710.250(b), 1710.251(a), and 1710.252(a)—with respect to the requirement that improvements, replacements, and retirements of generation plant be included in a Construction Work Plan; and

(5) Paragraph 1710.300(d)(5)—with respect to the requirement that a borrower's financial forecast include a sensitivity analysis of a reasonable range of assumptions for each of the major variables in the forecast.

(b) Certain provisions of this part apply only to loans made on or after February 10, 1992. These provisions are identified in the individual sections of this part.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 58 FR 66263, Dec. 20, 1993]

§§ 1710.7–1710.49 [Reserved]

Subpart B—Types of Loans and Loan Guarantees

§ 1710.50 Insured loans.

RUS makes insured loans under section 305 of the RE Act.

(a) *Municipal rate loans.* The standard interest rate on an insured loan made on or after November 1, 1993, is the municipal rate, which is the rate determined by the Administrator to be equal to the current market yield on outstanding municipal obligations with remaining periods to maturity, up to 35 years, similar to the interest rate term selected by the borrower. In certain cases, an interest rate cap of 7 percent may apply. The interest rate term and rollover maturity date for a municipal rate loan will be determined pursuant to 7 CFR part 1714, and the borrower may elect to include in the loan documents a prepayment option (call provision).

(b) *Hardship rate loans.* RUS makes hardship rate loans at the 5 percent hardship rate to qualified borrowers meeting the criteria set forth in 7 CFR 1714.8

[58 FR 66263, Dec. 20, 1993]

§ 1710.51 Direct loans.

RUS makes direct loans under section 4 of the RE Act.

(a) *General.* Except as otherwise modified by this section, RUS will make loans under the direct Treasury rate loan program in the same manner that it makes loans under the municipal rate program. The general and pre-loan policies and procedures for municipal rate electric loans made by RUS may be found in this part and 7 CFR part 1714. Treasury rate electric loans are also governed by such municipal rate policies and procedures, except as follows:

(1) *Interest rates.* The standard interest rate on direct Treasury rate loans will be established daily by the United States Treasury. The borrower will select interest rate terms for each advance of funds. The minimum interest rate term shall be one year. Interest rate terms will be limited to terms published by the Treasury (i.e. 1, 2, 3, 5, 7, 10, 20, and 30). Interest rate terms to final maturity date, if other than published by Treasury, will be determined by RUS. Interest rates for terms greater than 30 years will be at the 30-year rate. There will be no interest rate cap on Treasury rate loans.

(2) *Prepayment.* A Treasury rate direct electric loan may be repaid at par on its rollover maturity date if there is one. Such a loan, or portion thereof, may also be prepaid after it has been advanced for not less than two years, at any time prior to its rollover or final maturity date at its “net present value” (NPV) as determined by RUS.

(3) *Supplemental financing.* Supplemental financing will not be required in connection with Treasury rate direct electric loans.

(4) *Transitional assistance.* A Treasury rate direct loan is not available to provide transitional assistance to borrowers.

(b) *Loan documents.* Successful applicants will be required to execute and deliver to RUS a promissory note evidencing the borrower's obligation to repay the loan. The note must be in form and substance satisfactory to RUS. RUS will require a form of note substantially in the form that it currently accepts for direct municipal rate electric loans, with such revisions as may be necessary or appropriate to reflect the different interest setting provisions and the terms of paragraphs

§ 1710.52

(a) (1) and (2) of this section. All notes will be secured in accordance with the terms of 7 CFR part 1718.

[66 FR 66294, Dec. 26, 2001]

§ 1710.52 Loan guarantees.

RUS provides financing through 100 percent loan guarantees made under sections 306 and 306A of the RE Act. RUS also provides 90 percent loan guarantees under section 311 of the RE Act to enable borrowers to secure financing from certain private lenders. The loan guarantees are made for a term of up to 35 years, and the interest rate is established at a rate agreed to by the borrower and the lender, with RUS concurrence. The guarantee applies to the repayment of both principal and interest.

[58 FR 66264, Dec. 20, 1993]

§§ 1710.53–1710.99 [Reserved]

Subpart C—Loan Purposes and Basic Policies

§ 1710.100 General.

RUS makes loans and loan guarantees to finance the construction of electric distribution, transmission and generation facilities, including system improvements and replacements required to furnish and improve electric service in rural areas, and for demand side management, efficiency and energy conservation programs, and on grid and off grid renewable energy systems. In some circumstances, RUS may finance selected operating expenses of its borrowers. Loans made or guaranteed by the Administrator of RUS will be made in conformance with the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*), and 7 CFR chapter XVII. RUS provides certain technical assistance to borrowers when necessary to aid the development of rural electric service and to protect loan security.

[58 FR 66264, Dec. 20, 1993, as amended at 78 FR 73365, Dec. 5, 2013]

§ 1710.101 Types of eligible borrowers.

(a) RUS makes loans to corporations, states, territories, and subdivisions and agencies thereof; municipalities; people's utility districts; and cooperative, nonprofit, limited-dividend, or mutual

7 CFR Ch. XVI (1–1–21 Edition)

associations that provide or propose to provide:

(1) The retail electric service needs of rural areas, or

(2) The power supply needs of distribution borrowers under the terms of power supply arrangement satisfactory to RUS, or

(3) Eligible purposes under the Rural Energy Savings Program, including energy efficiency, renewable energy, energy storage or energy conservation measures and related services, improvements, investments, financing or relending.

(b) In making loans, RUS gives preference to states, territories, and subdivisions and agencies thereof; municipalities; people's utility districts; and cooperative, nonprofit, or limited-dividend associations. RUS does not make direct loans to individual consumers.

(c) For the purpose of determining eligibility of a distribution borrower not in default on the repayment of a loan made or guaranteed under the RE Act for a loan, loan guarantee, or lien accommodation, a default by a borrower from which a distribution borrower purchases wholesale power shall not:

(1) Be considered a default by the distribution borrower;

(2) Reduce the eligibility of the distribution borrower for assistance under the RE Act; or

(3) Be the cause, directly or indirectly, of imposing any requirement or restriction on the borrower as a condition of the assistance, except such requirements or restrictions as are necessary to implement a debt restructuring agreed on by the power supply borrower and RUS.

(d) For the purpose of determining the eligibility of a distribution borrower, RUS will consider whether the distribution borrower is current on its obligations to its wholesale power supplier under the RUS wholesale power contract.

(e) Nothing in paragraph (c) of this section relieves any distribution borrower that is a member of a power supply borrower in default on its obligations to RUS or operating under a debt restructuring agreement, of requirements set forth in RUS regulations, including, without limitation,

§1710.112(b)(6), or of any terms and conditions that the Administrator may otherwise impose on any borrower as a condition of obtaining a loan or loan guarantee (including, in appropriate cases, member guarantees).

(f) Except as provided in paragraph (g) of this section, former borrowers that have paid off all outstanding loans may reapply for a loan to serve RE Act beneficiary loads accruing from the time the former borrower's complete loan application is received by RUS. The determination of whether an area is rural will be based on the Census designation of the area at the time of the reapplication for a loan, if the area is not served by electric facilities financed by RUS. If the area is served by electric facilities financed by RUS, it will continue to be considered rural.

(g) Former borrowers that have prepaid all, or portions of outstanding insured and direct loans in accordance with RUS regulations must comply with the provisions of 7 CFR part 1786 before being considered eligible to borrow additional funds from RUS.

[58 FR 66264, Dec. 20, 1993, as amended at 78 FR 73365, Dec. 5, 2013; 85 FR 18418, Apr. 2, 2020]

§ 1710.102 Borrower eligibility for different types of loans.

(a) *Insured loans under section 305.* Insured loans are normally reserved for the financing of distribution and subtransmission facilities of both distribution and power supply borrowers, including, under certain circumstances, the implementation of demand side management, energy efficiency and energy conservation programs, and on grid and off grid renewable energy systems. In accordance with §1710.110, the Administrator may require the borrower to obtain no more than 30 percent of the total debt financing required for a proposed project by means of a supplemental loan from another lender without an RUS guarantee.

(b) *Direct loans under section 4.* Direct loans are normally reserved for the financing of distribution and subtransmission facilities of both distribution and power supply borrowers, including, under certain circumstances, the implementation of demand side management, energy efficiency and energy

conservation programs, and on grid and off grid renewable energy systems.

(c) *One hundred percent loan guarantees under section 306.* Both distribution and power supply borrowers are eligible for 100 percent loan guarantees under section 306 of the RE Act for any or all of the purposes set forth in §1710.106, including, under certain circumstances, the implementation of demand side management, energy conservation programs, and on grid and off grid renewable energy systems. (See 7 CFR part 1712). These guarantees are normally used to finance bulk transmission and generation facilities, but they may also be used to finance distribution and subtransmission facilities. If a borrower applies for a section 306 loan guarantee to finance all or a portion of distribution and subtransmission facilities, such request will not affect the borrower's eligibility for an insured loan to finance any remaining portion of said facilities or for any future insured loan to finance other distribution or subtransmission facilities. A section 306 loan guarantee, however, may not be used to guarantee a supplemental loan required by §1710.110.

(d) *One hundred percent loan guarantees under section 306A.* Under section 306A of the RE Act, both distribution and power supply borrowers are eligible under certain conditions to use an existing section 306 guarantee to refinance advances made on or before July 2, 1986 from a loan made by the Federal Financing Bank. (See 7 CFR part 1786.)

(e) *Ninety percent guarantees of private-sector loans under section 311.* Under section 311 of the RE Act, both distribution and power supply borrowers in the state of Alaska are eligible under certain conditions to obtain from RUS a 90 percent guarantee of a private-sector loan to refinance their Federal Financing Bank loans. (See 7 CFR part 1786.)

[57 FR 2832, Jan. 24, 1992, as amended at 58 FR 66264, Dec. 20, 1993; 66 FR 66294, Dec. 26, 2001; 78 FR 73365, Dec. 5, 2013]

§ 1710.103 Area coverage.

(a) Borrowers shall make a diligent effort to extend electric service to all unserved persons within their service area who:

- (1) Desire electric service; and

§ 1710.104

(2) Meet all reasonable requirements established by the borrower as a condition of service.

(b) If economically feasible and reasonable considering the cost of providing such service and/or the effects on all consumers' rates, such service shall be provided, to the maximum extent practicable, at the rates and minimum charges established in the borrower's rate schedules, without the payment by such persons, other than seasonal or temporary consumers, of a contribution in aid of construction. A seasonal consumer is one that demands electric service only during certain seasons of the year. A temporary consumer is a seasonal or year-round consumer that demands electric service over a period of less than five years.

(c) Borrowers may assess contributions in aid of construction provided such assessments are consistent with the policy set forth in this section.

[57 FR 1053, Jan. 9, 1992, as amended at 60 FR 67404, Dec. 29, 1995]

§ 1710.104 Service to non-RE Act beneficiaries.

(a) To the greatest extent practical, loans are limited to providing and improving electric facilities to serve consumers that are RE Act beneficiaries. When it is determined by the Administrator to be necessary in order to furnish or improve electric service in rural areas, loans may, under certain circumstances, be made to finance electric facilities to serve consumers that are not RE Act beneficiaries.

(b) Loan funds may be approved for facilities to serve non-RE Act beneficiaries only if:

(1) The primary purpose of the loan is to furnish or improve service for RE Act beneficiaries; and

(2) The use of loan funds to serve non-RE Act beneficiaries is necessary and incidental to the primary purpose of the loan.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 58 FR 66264, Dec. 20, 1993]

§ 1710.105 State regulatory approvals.

(a) In States where a borrower is required to obtain approval of a project or its financing from a state regulatory authority, RUS may require that such

7 CFR Ch. XVI (1-1-21 Edition)

approvals be obtained, if feasible for the borrower to do so, before the following types of loans are approved by RUS:

(1) Loans requiring an Environmental Impact Statement;

(2) Loans to finance generation and transmission facilities, when the loan request for such facilities is \$25 million or more; and

(3) Loans for the purpose of assisting borrowers to implement demand side management and energy conservation programs and on and off grid renewable energy systems.

(b) At minimum, in the case of all loans in states where state regulatory approval is required of the project or its financing, such state approvals will be required before loan funds are advanced.

(c) In cases where state regulatory authority approval has been obtained, but the borrower has failed to proceed with the project in a timely manner according to the schedule contained in the borrower's project design manual, or if there are cost overruns or other developments that threaten loan feasibility or security, RUS may require the borrower to obtain a reaffirmation of the project and its financing from the state authority before any additional loan funds are advanced.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 58 FR 66265, Dec. 20, 1993]

§ 1710.106 Uses of loan funds.

(a) Funds from loans made or guaranteed by RUS may be used to finance:

(1) *Distribution facilities.* (i) The construction of new distribution facilities or systems, the cost of system improvements and removals less salvage value, the cost of ordinary replacements and removals less salvage value, needed to meet load growth requirements, improve the quality of service, or replace existing facilities.

(ii) The purchase, rehabilitation and integration of existing distribution facilities and associated service territory when the acquisition is an incidental and necessary means of providing or improving service to persons in rural areas who are not receiving adequate central station service, and the borrower is unable to finance the acquisition from other sources. See § 1710.107.

(2) *Transmission and generation facilities.* (i) The construction of new transmission and generation facilities or systems, the cost of system improvements and removals, less salvage value, the cost of ordinary replacements and removals less salvage value, needed to meet load growth, improve the quality of service, or replace existing facilities.

(ii) The purchase of an ownership interest in new or existing transmission or generation facilities to serve RE Act beneficiaries.

(3) *Warehouse and garage facilities.* The purchase, remodeling, or construction of warehouse and garage facilities required for the operation of a borrower's system. See paragraph (b) of this section.

(4) *Interest.* The payment of interest on indebtedness incurred by a borrower to finance the construction of generation and transmission facilities during the period preceding the date such facilities are placed into service, if requested by the borrower and found necessary by RUS.

(5) Certain costs incurred in demand side management, energy conservation programs and on and off grid renewable energy systems.

(6) Eligible Energy Efficiency and Conservation Programs pursuant to Subpart H of this part.

(b) In cases of financial hardship, as determined by the Administrator, loans may also be made to finance the following items:

(1) The headquarters office and other headquarters facilities in addition to those cited in paragraph (a)(4) of this section;

(2) General plant equipment, including furniture, office, transportation, data processing and other work equipment; and

(3) Working capital required for the initial operation of a new system.

(c) RUS will not make loans to finance the following:

(1) Electric facilities, equipment, appliances, or wiring located inside the premises of the Consumer, except for assets financed pursuant to an Eligible EE Program, and qualifying items included in a loan for Demand side management or energy resource conservation programs, or renewable energy systems.

(2) Facilities to serve consumers who are not RE Act beneficiaries unless those facilities are necessary and incidental to providing or improving electric service in rural areas (See § 1710.104);

(3) Any facilities or other purposes that a state regulatory authority having jurisdiction will not approve for inclusion in the borrower's rate base, or will not otherwise allow rates sufficient to repay with interest the debt incurred for the facilities or other purposes; and

(d) A distribution borrower may request a loan period of up to 4 years. Except in the case of loans for new generating and associated transmission facilities, a power supply borrower may request a loan period of not more than 4 years for transmission and substation facilities and improvements or replacements of generation facilities. The loan period for new generating facilities and DSM activities will be determined on a case-by-case basis. The Administrator may approve a loan period shorter than the period requested by the borrower, if in the Administrator's sole discretion, a loan made for the longer period would fail to meet RUS requirements for loan feasibility and loan security set forth in §§ 1710.112 and 1710.113, respectively.

(e)(1) If, in the sole discretion of the Administrator, the amount authorized for lending for municipal rate loans, hardship rate loans, and loan guarantees in a fiscal year is substantially less than the total amount eligible for RUS financing, RUS may limit the size of all loans of that type approved during the fiscal year. Depending on the amount of the shortfall between the amount authorized for lending and the loan application inventory on hand for each type of loan, RUS may either reduce the amount on an equal proportion basis for all applicants for that type of loan based on the amount of funds for which the applicant is eligible, or may shorten the loan period for which funding will be approved to less than the maximum of 4 years. All applications for the same type of loan approved during a fiscal year will be treated in the same manner, except that RUS will not limit funding to any

§ 1710.107

borrower requesting an RUS loan or loan guarantee of \$1 million or less.

(2) If RUS limits the amount of loan funds approved for borrowers, the Administrator shall notify all electric borrowers early in the fiscal year of the manner in which funding will be limited. The portion of the loan application that is not funded during that fiscal year may, at the borrower's option, be treated as a second loan application received by RUS at a later date. This date will be determined by RUS in the same manner for all affected loans and will be based on the availability of loan funds. The second loan application shall be considered complete except that the borrower must submit a certification from a duly authorized corporate official stating that funds are still needed for loan purposes specified in the original application and must notify RUS of any changes in its circumstances that materially affects the information contained in the original loan application or the primary support documents. See 7 CFR 1710.401(f).

(f)(1) For borrowers having one or more loans approved on or after October 1, 1991, advances of funds will be made only for the primary budget purposes included in the loan as shown on RUS Form 740c as amended and approved by RUS, or on a construction work plan or a construction work plan amendment approved by RUS. Each advance will be charged to the oldest outstanding note(s) having unadvanced funds for the primary budget purpose for which the request for advances was made, regardless of whether such notes are associated with loans approved before or after October 1, 1991, unless any conditions on advances under any of these notes have not been met by the borrower.

(2) For borrowers whose most recent loan was approved before October 1, 1991, advances will be made on the oldest outstanding note having unadvanced funds, unless any conditions on advances under such note have not been met by the borrower.

(g) A borrower is permitted to use up to 10 percent of the amount provided under this part to construct, improve, or acquire broadband infrastructure related to the project financed, subject to

7 CFR Ch. XVI (1–1–21 Edition)

the requirements of 7 CFR part 1980, subpart M.

[57 FR 1053, Jan. 9, 1992, as amended at 58 FR 66265, Dec. 20, 1993; 60 FR 3730, Jan. 19, 1995; 62 FR 7922, Feb. 21, 1997; 64 FR 33178, June 22, 1999; 78 FR 73365, Dec. 5, 2013; 84 FR 32610, July 9, 2019; 85 FR 57081, Sept. 15, 2020]

§ 1710.107 Amount lent for acquisitions.

The maximum amount that will be lent for an acquisition is limited to the value of the property, as determined by RUS. If the acquisition price exceeds this amount, the borrower shall provide the remainder without RUS financial assistance.

§ 1710.108 Mergers and consolidations.

(a) RUS encourages its borrowers to consider merging or consolidating with another electric borrower when such action will contribute to greater operating efficiency and financial soundness.

(b) After a merger or consolidation, RUS will give priority consideration per § 1710.119 to the processing of loans for the surviving system to finance the integration and rehabilitation of electric facilities, if necessary, and the improvement or extension of electric service in rural areas. Such priority consideration will also be given in the case of a borrower that has merged or consolidated with an electric system that has not previously received RUS financial assistance, if such system was serving primarily rural residents at the time of the merger or consolidation and such rural residents will continue to be served by the merged or consolidated system. RUS does not make loans for costs incurred in effectuating mergers or consolidations, such as legal expenses or feasibility study costs.

§ 1710.109 Reimbursement of general funds and interim financing.

(a) Borrowers may request that a loan include funds to reimburse general funds and/or replace interim financing used to finance equipment and facilities that were included in an RUS-approved construction work plan, energy efficiency and conservation program work plan, work plan amendment or other RUS-approved plan, and for

Department of Agriculture

§ 1710.110

which loan funds have not been provided by RUS. Such reimbursement and/or replacement of interim financing may include the direct costs of procurement and construction, as well as the related cost of engineering, architectural, environmental and other studies and plans needed to support the project, when such cost is capitalized as part of the cost of the facilities.

(b) If procurement and/or construction of the equipment and facilities was completed prior to the current loan period, reimbursement, including replacement of interim financing, will be limited, except in cases of extreme financial hardship as determined by the Administrator, to the cost of procurement and construction completed during the period immediately preceding the current loan period, as specified in paragraph (c) of this section. As defined in §1710.2, the loan period begins on the date shown on page 1 of RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers.

(c)(1) The period immediately preceding the current loan period for which reimbursement and replacement of interim financing is authorized under paragraph (b) of this section is as follows:

(i) The number of months agreed to by RUS and the borrower for complete loan applications received by RUS before February 10, 1992;

(ii) 36 months for complete loan applications received from February 10, 1992 through February 10, 1993; or

(iii) 24 months for complete loan applications received after February 10, 1993.

(2) Policies for reimbursement of general funds and interim financing following certain mergers, consolidations, and transfers of systems substantially in their entirety are set forth in 7 CFR 1717.154.

(d) If the reimbursement of general funds and/or replacement of interim financing is for approved expenditures for equipment and facilities whose procurement and/or construction is completed during the current loan period, the time limits of paragraph (c) of this section do not apply.

[57 FR 1053, Jan. 9, 1992, as amended at 58 FR 66265, Dec. 20, 1993; 61 FR 66870, Dec. 19, 1996; 78 FR 73366, Dec. 5, 2013]

§ 1710.110 Supplemental financing.

(a) Except in the case of financial hardship as determined by the Administrator, and following certain mergers, consolidations, and transfers of systems substantially in their entirety as set forth in 7 CFR 1717.154, applicants for a municipal rate loan will be required to obtain a portion of their loan funds from a supplemental source without an RUS guarantee, in the amounts set forth in paragraph (c) of this section. RUS will normally grant a lien accommodation to the supplemental lender. RUS does not require supplemental financing in conjunction with an RUS guaranteed loan. However, if a borrower elects to obtain supplemental financing in conjunction with a guaranteed loan, the granting of RUS's loan guarantee may be conditioned on the borrower's obtaining supplemental financing.

(b) The terms and conditions of supplemental financing and any security offered to the supplemental lender are subject to RUS approval. Generally, supplemental loans must have the same final maturity and be amortized in the same manner as RUS loans made concurrently. Borrowers may elect to repay the loans either in substantially equal periodic installments covering interest and principal, or in periodic installments that include interest and level amortization of principal.

(c) *Supplemental financing required for municipal rate loans*—(1) *Distribution borrowers.* (i) Distribution borrowers that had, as of December 31, 1980, an average consumer density of 2 or fewer consumers per mile or an average adjusted plant revenue ratio (APRR), as defined in §1710.2, of over 9.0 shall obtain supplemental financing equal to 10 percent of their loan request.

(ii) All other distribution borrowers must obtain supplemental financing according to their plant revenue ratio (PRR), as defined in §1710.2, based on the most recent year-end data available on the date of loan approval, as follows:

PRR	Supplemental loan percentage
9.00 and above	10
8.01–8.99	20
8.00 and below	30

(iii) If a distribution borrower enters into a merger, consolidation, or transfer of system substantially in its entirety, and the provisions of 7 CFR 1717.154(b) do not apply, required supplemental financing will be determined as follows for loans approved by RUS after December 19, 1996. If one of the merging parties met the criteria in paragraph (c)(1)(i) of this section prior to the effective date of the merger consolidation or transfer, the borrower will be required to obtain supplemental financing equal to 10 percent of any loan funds requested for facilities to serve consumers located in the territory formerly served by the “paragraph (c)(1)(i)” borrower. The required amount of supplemental financing for the rest of the loan will be determined according to the provisions of paragraph (c)(1)(ii) of this section.

(2) *Power supply borrowers.* The supplemental loan proportion required of a power supply borrower is based on the simple arithmetic mean of the supplemental loan proportions required of the borrower’s distribution members.

(3) *Subsequent loans.* (i) If more than 5 percent of an insured loan made prior to November 1, 1993, or of a municipal rate loan is terminated or rescinded, the amount of supplemental financing required in the borrower’s next loan after the rescission for which supplemental financing is required, pursuant to paragraph (a) of this section, will be adjusted to average the actual supplemental financing portion on the terminated or rescinded loan with the supplemental financing portion that would have been required on the new loan according to paragraphs (c)(1) and (2) of this section, in accordance with the formulas set forth in paragraphs (c)(3)(ii) and (iii) of this section.

(ii) If a borrower’s supplemental financing requirement as set forth in paragraphs (a), (c)(1), and (c)(2) of this section has not changed between the most recent loan and the loan being considered, then the amount of supplemental financing required for the new loan will be computed as follows:

Supplemental financing amount, new loan = $[(A + B) \times C] - D$

where:

- A = The total funds (\$) actually advanced from the first loan, including both RUS loan funds and funds from the supplemental loan, plus any unadvanced funds still available to the borrower after the rescission.
- B = The total amount (\$) for facilities of the new loan request, including both RUS loan funds and funds from supplemental loans.
- C = The proportion (%) of supplemental financing required on the loans according to paragraphs (a), (c)(1) and (c)(2) of this section.
- D = The amount (\$) of supplemental funds actually advanced on the first loan, plus any unadvanced supplemental funds still available to the borrower after the rescission.

(iii) If a borrower’s supplemental financing requirement as set forth in paragraphs (a), (c)(1), and (c)(2) of this section has changed between the most recent loan and the loan being considered, then the amount of supplemental financing required for the new loan will be the weighted average of the portions otherwise applicable on the two loans and will be computed as follows:

Supplemental financing amount, new loan = $(A \times C_1) + (B \times C_2) - D$

where:

- A = The total funds (\$) actually advanced from the first loan, including both RUS loan funds and funds from the supplemental loan, plus any unadvanced funds still available to the borrower after the rescission.
- B = The total amount (\$) for facilities of the new loan request, including both RUS funds and funds from supplemental loans.
- C₁ = The proportion (%) of supplemental financing required on the old loan according to paragraphs (a), (c)(1) and (c)(2) of this section.
- C₂ = The proportion (%) of supplemental financing required on the new loan according to paragraphs (a), (c)(1) and (c)(2) of this section.
- D = The amount (\$) of supplemental funds actually advanced on the first loan, plus any unadvanced supplemental funds still available to the borrower after the rescission.

(d) Supplemental financing will not be required in connection with hardship rate loans. Borrowers that qualify for hardship rate loans but elect to take municipal rate loans instead, will be required to obtain supplemental financing pursuant to this section, unless at the time of loan approval, there

Department of Agriculture

§ 1710.112

are no funds remaining available for hardship loans, in which case supplemental financing will not be required.

[57 FR 1053, Jan. 9, 1992, as amended at 58 FR 66265, Dec. 20, 1993; 60 FR 3730, Jan. 19, 1995; 61 FR 66870, Dec. 19, 1996]

§ 1710.111 Refinancing.

(a) RUS makes loans or loan guarantees to refinance the outstanding indebtedness of borrowers in the following cases:

(1) Loans or loan guarantees to refinance long-term debt owed by borrowers to the Tennessee Valley Authority for credit extended under the terms of the Tennessee Valley Authority Act of 1933, as amended.

(2) Loan guarantees made in accordance with the provisions of section 306A of the RE Act to prepay a loan (or any loan advance thereunder) made by the Federal Financing Bank.

(b) In certain circumstances, RUS may make a loan to replace interim financing obtained for the construction of facilities (See § 1710.109).

§ 1710.112 Loan feasibility.

(a) RUS will make a loan only if there is reasonable assurance that the loan, together with all outstanding loans and other obligations of the borrower, will be repaid in full as scheduled, in accordance with the mortgage, notes, and loan contracts. The borrower must provide evidence satisfactory to the Administrator that the loan will be repaid in full as scheduled, and that all other obligations of the borrower will be met.

(b) Based on evidence submitted by the borrower and other information, RUS will use the following criteria to evaluate loan feasibility:

(1) Projections of power requirements, rates, revenues, expenses, margins, and other factors for the present system and proposed additions are based on reasonable assumptions and adequate supporting data and analysis, including analysis of a range of assumptions for the significant variables, when required by § 1710.300(d)(5).

(2) Projected revenues from the rates proposed by the borrower are adequate to meet the required TIER and DSC ratios based on the borrower's total

costs, including the projected maximum debt service cost of the new loan.

(3) The economics of the borrower's operations and service area are such that consumers can reasonably be expected to pay the proposed rates required to cover all expenses and meet RUS TIER and DSC requirements, and the borrower can reasonably compete with other utilities and other energy sources to prevent substantial load loss while providing satisfactory service to its consumers.

(4) Risks of possible loss of substantial loads from large consumers or from load concentrations in particular industries will not substantially impair loan feasibility.

(5) Risks of loss of portions of the borrower's service territory from annexation or other causes will not substantially impair loan feasibility. If there appears to be a substantial risk, RUS may require additional information from the borrower, such as a summary and analysis of the risk by the borrower; state, county or local planning reports having information on projected growth or expansion plans of local communities; annexation plans of the municipalities in question; and any other relevant information.

(6) In states where rates or investment decisions are subject to approval by state regulatory authorities, there is reasonable expectation that such approvals will be forthcoming to enable repayment of the loan in full according to its terms.

(7) The experience and performance of the system's management is acceptable.

(8) In the case of joint ventures, the borrower has sufficient management control or other contractual safeguards with respect to the construction and operation of the jointly owned facility to ensure that the borrower's interests are protected and the credit risk is minimized.

(9) The borrower has implemented adequate financial and management controls and there are and have been no significant financial or other irregularities.

(10) The borrower's projected capitalization, measured by its equity as a percentage of total assets, is adequate

§ 1710.113

7 CFR Ch. XVI (1–1–21 Edition)

to enable the borrower to meet its financial needs and to provide service consistent with the RE Act. Among the factors to be considered in reviewing the borrower's projected capitalization are the economic strength of the borrower's service territory, the inherent cost of providing service to the territory, the disparity in rates between the borrower and neighboring utilities, the intensity of competition faced by the borrower from neighboring utilities and other power sources, and the relative amount of new capital investment required to serve existing or new loads.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 60 FR 3731, Jan. 19, 1995; 63 FR 51793, Sept. 29, 1998; 84 FR 32610, July 9, 2019]

§ 1710.113 Loan security.

(a) RUS makes loans only if, in the judgment of the Administrator, the security therefor is reasonably adequate and the loan will be repaid according to its terms within the time agreed.

(b) RUS generally requires that borrowers provide it with a first lien on all of the borrower's real and personal property, including intangible personal property and any property acquired after the date of the loan. This lien shall be in the form of a mortgage by the borrower to the Government or a deed of trust between the borrower and a trustee satisfactory to the Administrator, together with such security documents as RUS may deem necessary in a particular case.

(c)(1) When a borrower is unable by reason of preexisting encumbrances, or otherwise, to furnish a first mortgage lien on its entire system the Administrator may accept other forms of security, such as a pledge of revenues, if he or she determines such security is reasonably adequate and the form and nature thereof is otherwise acceptable.

(2) The Administrator, at his or her discretion, may approve the use of an indenture patterned after those indentures commonly used by utilities engaged in private market financing, in lieu of a mortgage as the security instrument for loans to power supply borrowers. The use of an indenture will be by mutual agreement of the borrower and the Administrator. The

terms of each indenture and related loan agreement will be negotiated on a case by case basis to best meet the needs of the individual borrower and the Government. The provisions of the indenture and loan contract shall control, notwithstanding any provisions of 7 CFR Chapter XVII which may be in conflict therewith.

(d) In the case of loans that include the financing of electric facilities that are operated as an integral component of a non-RUS financed system (such as generation and transmission facilities co-owned with other electric utilities), the borrower shall, in addition to the mortgage lien on all of the borrower's electric facilities, furnish adequate assurance, in the form of contractual or other security arrangements, that the system will be operated on an efficient and continuous basis. Satisfactory evidence must also be provided that the non-RUS financed system is financially sound and under capable management. Examples of such evidence include financial reports, annual reports, Security and Exchange Commission 10K reports if the system is required to file them, credit reports from Standard and Poor's, Moodys or other recognized sources, reports to state regulatory authorities and the Federal Energy Regulatory Commission, and evidence of a successful track record in related construction projects.

(e) Additional controls on the borrower's financial, investment and managerial activities appear in the loan contract and mortgage required by RUS.

[57 FR 1053, Jan. 9, 1992, as amended at 62 FR 7665, Feb. 20, 1997]

§ 1710.114 TIER, DSC, OTIER and ODSC requirements.

(a) *General.* Requirements for coverage ratios are set forth in the borrower's mortgage, loan contract, or other contractual agreements with RUS. The requirements set forth in this section apply to borrowers that receive a loan approved by RUS on or after February 10, 1992. Nothing in this section, however, shall reduce the coverage ratio requirements of a borrower that has contractually agreed with RUS to a higher requirement.

(b) *Coverage ratios.* (1) Distribution borrowers. The minimum coverage ratios required of distribution borrowers whether applied on an annual or average basis, are a TIER of 1.25, DSC of 1.25, OTIER of 1.1, and ODSC of 1.1. OTIER and ODSC shall apply to distribution borrowers that receive a loan approved on or after January 29, 1996.

(2) The minimum coverage ratios required of power supply borrowers, whether applied on an annual or average basis, are a TIER of 1.05 and DSC of 1.00.

(3) When new loan contracts are executed, the Administrator may, case by case, increase the coverage ratios of distribution and power supply borrowers above the levels cited in paragraphs (b)(1) and (b)(2), respectively, of this section if the Administrator determines that the higher ratios are required to ensure reasonable security for and/or the repayment of loans made or guaranteed by RUS. Also, the Administrator may, case by case, reduce said coverage ratios if the Administrator determines that the lower ratios are required to ensure reasonable security for and/or the repayment of loans made or guaranteed by RUS. Policies for coverage ratios following certain mergers, consolidations, and transfers of systems substantially in their entirety are in 7 CFR 1717.155.

(4) If a distribution borrower has in service or under construction a substantial amount of generation and associated transmission plant financed at a cost of capital substantially higher than the cost of funds under section 305 of the RE Act, then the Administrator may establish, in his or her sole discretion, blended levels for TIER, DSC, OTIER, and ODSC based on the respective shares of total utility plant represented by said generation and associated transmission plant and by distribution and other transmission plant.

(c) *Requirements for loan feasibility.* To be eligible for a loan, borrowers must demonstrate to RUS that they will, on a pro forma basis, earn the coverage ratios required by paragraph (b) of this section in each of the years included in the borrower's long-range financial forecast prepared in support of its loan application, as set forth in subpart G of this part.

(d) *Requirements for maintenance of coverage ratios—*(1) *Prospective requirement.* Borrowers must design and implement rates for utility service to provide sufficient revenue (along with other revenue available to the borrower in the case of TIER and DSC) to pay all fixed and variable expenses, to provide and maintain reasonable working capital and to maintain on an annual basis the coverage ratios required by paragraph (b) of this section. Rates must be designed and implemented to produce at least enough revenue to meet the requirements of this paragraph under the assumption that average weather conditions in the borrower's service territory will prevail in the future, including average system damage and outages due to weather and the related costs. Failure to design and implement rates pursuant to the requirements of this paragraph shall be an event of default upon notice provided in accordance with the terms of the borrower's mortgage or loan contract.

(2) *Retrospective requirement.* The average coverage ratios achieved by a borrower in the 2 best years out of the 3 most recent calendar years must meet the levels required by paragraph (b) of this section. If a borrower fails to achieve these average levels, it must promptly notify RUS in writing. Within 30 days of such notification or of the borrower being notified in writing by RUS, whichever is earlier, the borrower, in consultation with RUS, must provide a written plan satisfactory to RUS setting forth the actions that will be taken to achieve the required coverage ratios on a timely basis. Failure to develop and implement a plan satisfactory to RUS shall be an event of default upon notice provided in accordance with the terms of the borrower's mortgage or loan contract.

(3) *Fixed and variable expenses,* as used in this section, include but are not limited to: all taxes, depreciation, maintenance expenses, and the cost of electric power and energy and other operating expenses of the electric system, including all obligations under the wholesale power contract, all lease payments when due, and all principal and interest payments on outstanding indebtedness when due.

(e) *Requirements for advance of funds.*

(1) If a borrower applying for a loan has failed to achieve the coverage ratios required by paragraph (b) of this section during the latest 12 month period immediately preceding approval of the loan, or if any of the borrower's average coverage ratios for the 2 best years out of the most recent 3 calendar years were below the levels required in paragraph (b) of this section, RUS may withhold the advance of loan funds until the borrower has adopted an annual financial plan and operating budget satisfactory to RUS and taken such other action as RUS may require to demonstrate that the required coverage ratios will be maintained in the future and that the loan will be repaid with interest within the time agreed. Such other action may include, for example, increasing system operating efficiency and reducing costs or adopting a rate design that will achieve the required coverage ratios, and either placing such rates into effect or taking action to obtain regulatory authority approval of such rates. If failure to achieve the coverage ratios is due to unusual events beyond the control of the borrower, such as unusual weather, system outage due to a storm or regulatory delay in approving rate increases, then the Administrator may waive the requirement that the borrower take the remedial actions set forth in this paragraph, provided that such waiver will not threaten loan feasibility.

(2) With respect to any outstanding loan approved by RUS on or after February 10, 1992, if, based on actual or projected financial performance of the borrower, RUS determines that the borrower may not achieve its required coverage ratios in the current or future years, RUS may withhold the advance of loan funds until the borrower has taken remedial action satisfactory to RUS.

[60 FR 67404, Dec. 29, 1995, as amended at 61 FR 66871, Dec. 19, 1996; 65 FR 51748, Aug. 25, 2000]

§ 1710.115 Final maturity.

(a) RUS is authorized to make loans and loan guarantees with a final maturity of up to 35 years. The borrower may elect a repayment period for a

loan not longer than the expected useful life of the facilities, not to exceed 35 years. Most of the electric facilities financed by RUS have a long useful life, often approximating 35 years. Some facilities, such as load management equipment and Supervisory Control and Data Acquisition equipment, have a much shorter useful life due, in part, to obsolescence. Operating loans to finance working capital required for the initial operation of a new system are a separate class of loans and usually have a final maturity of less than 10 years.

(b) Loans made or guaranteed by RUS for facilities owned by the borrower generally must be repaid with interest within a period, up to 35 years, that approximates the expected useful life of the facilities financed. The expected useful life shall be based on the weighted average of the useful lives that the borrower proposes for the facilities financed by the loan, provided that the proposed useful lives are deemed appropriate by RUS. RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers, submitted as part of the loan application must include, as a note, either a statement certifying that at least 90 percent of the loan funds are for facilities that have a useful life of 33 years or longer, or a schedule showing the costs and useful life of those facilities with a useful life of less than 33 years. If the useful life determination proposed by the borrower is not deemed appropriate by RUS, RUS will base expected useful life on an independent evaluation, the manufacturer's estimated useful-life or RUS experience with like-property, as applicable. Final maturities for loans for the implementation of programs for demand side management and energy resource conservation and on and off grid renewable energy sources not owned by the borrower will be determined by RUS. Due to the uncertainty of predictions over an extended period of time, RUS may add up to 2 years to the composite average useful life of the facilities in order to determine final maturity.

(c) The term for loans made to finance Eligible EE Programs will be determined in accordance with § 1710.408 of this part.

Department of Agriculture

§ 1710.124

(d) The Administrator may approve a repayment period longer than the expected useful life of the facilities financed, up to 35 years, if a longer final maturity is required to ensure repayment of the loan and loan security is adequate.

(e) The final maturity of a loan established pursuant to the provisions of this section shall not be extended as a result of extending loan payments under section 12(a) of the RE Act.

[58 FR 66265, Dec. 20, 1993, as amended at 60 FR 3731, Jan. 19, 1995; 68 FR 54236, May 7, 2003; 78 FR 73366, Dec. 5, 2013]

§ 1710.116 [Reserved]

§ 1710.117 Environmental review requirements.

Borrowers are required to comply with the environmental review requirements in accordance with 7 CFR part 1970, and other applicable environmental laws, regulations and Executive orders.

[81 FR 11026, Mar. 2, 2016]

§ 1710.118 [Reserved]

§ 1710.119 Loan processing priorities.

(a) Generally loans are processed in chronological order based on the date the complete application is received in the Regional office.

(b) The Administrator may give priority to processing loans that are required to meet the following needs:

(1) To restore electric service following a major storm or other catastrophe;

(2) To bring existing electric facilities into compliance with any environmental requirements imposed by Federal or state law that were not in effect at the time the facilities were originally constructed;

(3) To finance the capital needs of borrowers that are the result of a merger, consolidation, or a transfer of a system substantially in its entirety, provided that the merger, consolidation, or transfer has either been approved by RUS or does not need RUS approval pursuant to the borrower's loan documents (See 7 CFR 1717.154); or

(4) To correct serious safety problems, other than those resulting from

borrower mismanagement or negligence.

(c) The Administrator may also change the normal order of processing loan applications when it is necessary to ensure that all loan authority for the fiscal year is utilized.

[57 FR 1053, Jan. 9, 1992, as amended at 61 FR 66871, Dec. 19, 1996]

§ 1710.120 Construction standards and contracting.

Borrowers shall follow all RUS requirements regarding construction work plans, energy efficiency and conservation program work plans, construction standards, approved materials, construction and related contracts, inspection procedures, and bidding procedures.

[57 FR 1053, Jan. 9, 1992, as amended at 78 FR 73366, Dec. 5, 2013]

§ 1710.121 Insurance requirements.

Borrowers are required to comply with certain requirements with respect to insurance and fidelity coverage as set forth in 7 CFR part 1788.

§ 1710.122 Equal opportunity and non-discrimination.

Borrowers are required to comply with certain regulations on non-discrimination in program services and benefits and on equal employment opportunity as set forth in RUS Bulletins 20-15 and 20-19 or their successors; 7 CFR parts 15 and 15b; and 45 CFR part 90.

§ 1710.123 Debarment and suspension.

Borrowers are required to comply with certain requirements on debarment and suspension as set forth in 2 CFR part 180, as adopted by USDA through 2 CFR part 417.

[79 FR 76002, Dec. 19, 2014]

§ 1710.124 Uniform Relocation Act.

Borrowers are required to comply with applicable provisions of 49 CFR part 24, which sets forth the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Pub. L. 91-646; 84 Stat. 1894), as amended by the Uniform Relocation Act Amendments of 1987 (Pub. L. 100-17; 101 Stat. 246-256) and

§ 1710.125

the Intermodal Surface Transportation Efficiency Act of 1991.

§ 1710.125 Restrictions on lobbying.

Borrowers are required to comply with certain requirements with respect to restrictions on lobbying activities. See 2 CFR part 418.

[79 FR 76002, Dec. 19, 2014]

§ 1710.126 Federal debt delinquency.

(a) Prior to approval of a loan or advance of funds, a borrower must report to RUS whether or not it is delinquent on any Federal debt, such as Federal income tax obligations or a loan or loan guarantee from another Federal agency. If delinquent, the reasons for the delinquency must be explained, and RUS will take such explanation into consideration in deciding whether to approve the loan or advance of funds.

(b) Applicants for a loan or loan guarantee must also certify that they have been informed of the collection options the Federal government may use to collect delinquent debt.

§ 1710.127 Drug free workplace.

Borrowers are required to comply with the Drug Free Workplace Act of 1988 (41 U.S.C. 8101 *et. seq.*) and the Act's implementing regulations (2 CFR part 421) when a borrower receives a Federal grant or enters into a procurement contract awarded pursuant to the provisions of the Federal Acquisition Regulation (title 48 CFR) to sell to a Federal agency property or services having a value of \$25,000 or more.

[79 FR 76002, Dec. 19, 2014]

§§ 1710.128–1710.149 [Reserved]

Subpart D—Basic Requirements for Loan Approval

§ 1710.150 General.

The RE Act and prudent lending practice require that the Administrator make certain findings before approving an electric loan or loan guarantee. The borrower shall provide the evidence determined by the Administrator to be necessary to make these findings.

7 CFR Ch. XVI (1–1–21 Edition)

§ 1710.151 Required findings for all loans.

(a) *Area coverage.* Adequate electric service will be made available to the widest practical number of rural users in the borrower's service area during the life of the loan. See § 1710.103.

(b) *Feasibility.* The loan is feasible and it will be repaid on time according to the terms of the mortgage, note, and loan contract. At any time after the original determination of feasibility, the Administrator may require the borrower to demonstrate that the loan remains feasible if there have been, or are anticipated to be, material changes in the borrower's costs, loads, rates, rate disparity, revenues, or other relevant factors from the time that feasibility was originally determined. See § 1710.112 and subpart G of this part.

(c) *Security.* RUS will have a first lien on the borrower's total system or other adequate security, and adequate financial and managerial controls will be included in loan documents. See § 1710.113.

(d) *Interim financing.* For loans that include funds to replace interim financing, there is satisfactory evidence that the interim financing was used for purposes approved by RUS and that the loan meets all applicable requirements of this part.

(e) *Facilities for nonrural areas.* Whenever a borrower proposes to use loan funds for the improvement, expansion, construction, or acquisition of electric facilities for non-RE Act beneficiaries, there is satisfactory evidence that such funds are necessary and incidental to furnishing or improving electric service for RE Act beneficiaries. See § 1710.104.

(f) *Facilities to be included in rate base.* In states having jurisdiction, the borrower has provided satisfactory evidence based on the information available, such as an opinion of counsel, that the state regulatory authority will not exclude from the borrower's rate base any of the facilities included in the loan request, or otherwise prevent the borrower from charging rates sufficient to repay with interest the debt incurred for the facilities. Such evidence may be based on, but not necessarily limited to, the provisions of applicable state laws; the rules and

Department of Agriculture

§ 1710.200

policies of the state authority; precedents in other similar cases; statements made by the state authority; any assurances given to the borrower by the state authority; and other relevant information and experience.

§ 1710.152 Primary support documents.

The following primary support documents and studies must be prepared by the borrower for approval by RUS in order to support a loan application:

(a) *Load forecast*. The load forecast provides the borrower and RUS with an understanding of the borrower's future system loads, the factors influencing those loads, and estimates of future loads. The load forecast provides a basis for projecting annual electricity (kWh) sales and revenues, and for engineering estimates of plant additions required to provide reliable service to meet the forecasted loads. Subpart E of this part contains the information to be included in a load forecast and when an approved load forecast is required.

(b) *Construction work plan (CWP)*. The CWP shall specify and document the capital investments required to serve a borrower's planned new loads, improve service reliability and quality, and service the changing needs of existing loads. The requirements for a CWP are set forth in subpart F of this part.

(c) *Long-range financial forecasts*. RUS encourages borrowers to maintain on a current basis a long-range financial forecast, which should be used by a borrower's board of directors and manager to guide the system toward its financial goals. The forecast submitted in support of a loan application shall show the projected results of future actions planned by the board of directors. The requirements for a long-range financial forecast are set forth in subpart G of this part.

(d) *Environmental review requirements*. A borrower must comply with the environmental review requirements in accordance with 7 CFR part 1970.

(e) *EE Program work plan (EEWP)*. In the case of a loan application to finance an Eligible Energy Efficient Program, an EE Program work plan shall be prepared in lieu of a traditional CWP required pursuant to paragraph (b) of this section. The requirements

for an EEWP are set forth in § 1710.255 and in subpart H of this part.

[57 FR 1053, Jan. 9, 1992, as amended at 65 FR 14786, Mar. 20, 2000; 78 FR 73366, Dec. 5, 2013; 81 FR 11026, Mar. 2, 2016]

§ 1710.153 Additional requirements and procedures.

Additional requirements and procedures for obtaining RUS financial assistance are set forth in 7 CFR part 1712 for loan guarantees, and in 7 CFR part 1714 for insured loans.

§ 1710.154 Board of Director Resolutions.

Specific actions that require a Board of Director Resolution from a borrower:

(a) Board approval of loan documents;

(b) Major change in the terms of a loan, *i.e.* maturity;

(c) Initial access to RD Apply (or successor RUS online application systems);

(d) Requests for approval by a Board, acting as the regulatory authority, for any departure from the RUS Uniform System of Accounts with the exception of those deferrals specifically identified in § 1767.13(d); and

(e) eAuthentication requirements.

[84 FR 32610, July 9, 2019]

§§ 1710.155–1710.199 [Reserved]

Subpart E—Load Forecasts

SOURCE: 65 FR 14786, Mar. 20, 2000, unless otherwise noted.

§ 1710.200 Purpose.

This subpart contains RUS policies for the preparation, review, approval and use of load forecasts and load forecast work plans. A load forecast is a thorough study of a borrower's electric loads and the factors that affect those loads in order to estimate, as accurately as practicable, the borrower's future requirements for energy and capacity. The load forecast of a power supply borrower includes and integrates the load forecasts of its member systems. An approved load forecast, if required by this subpart, is one of the primary documents that a borrower is

§ 1710.201

required to submit to support a loan application.

§ 1710.201 General.

(a) The policies, procedures and requirements in this subpart are intended to implement provisions of the loan documents between RUS and the electric borrowers and are also necessary to support approval by RUS of requests for financial assistance.

(b) Notwithstanding any other provisions of this subpart, RUS may require any power supply or distribution borrower to prepare a new or updated load forecast for RUS approval or to maintain an approved load forecast on an ongoing basis, if such documentation is necessary for RUS to determine loan feasibility, or to ensure compliance under the loan documents.

§ 1710.202 Requirement to prepare a load forecast—power supply borrowers.

(a) A power supply borrower with a total utility plant of \$500 million or more must provide a load forecast in support of any request for RUS financial assistance. The borrower must also maintain a load forecast work plan on file. The borrower's load forecast must be prepared pursuant to the load forecast work plan.

(b) A power supply borrower that is a member of another power supply borrower that has a total utility plant of \$500 million or more must provide an approved load forecast in support of any request for RUS financial assistance. The member power supply borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower. The load forecasts must be prepared pursuant to the load forecast work plan.

(c) A power supply borrower that has total utility plant of less than \$500 million and that is not a member of another power supply borrower with a total utility plant of \$500 million or more must provide a load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee which exceeds \$50 million.

[84 FR 32610, July 9, 2019]

7 CFR Ch. XVI (1–1–21 Edition)

§ 1710.203 Requirement to prepare a load forecast—distribution borrowers.

(a) A distribution borrower that is a member of a power supply borrower, with a total utility plant of \$500 million or more must provide a load forecast in support of any request for RUS financial assistance. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The distribution borrower's load forecast must be prepared pursuant to the load forecast work plan of its power supply borrower.

(b) A distribution borrower that is a member of a power supply borrower which is itself a member of another power supply borrower that has a total utility plant of \$500 million or more must provide a load forecast in support of any request for RUS financial assistance. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower. The distribution borrower's load forecast must be prepared pursuant to the load forecast work plan of the power supply borrower with total utility plant in excess of \$500 million.

(c) A distribution borrower that is a member of a power supply borrower with a total utility plant of less than \$500 million must provide a load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee that exceeds \$3 million or 5 percent of total utility plant, whichever is greater. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower.

(d) A distribution borrower with a total utility plant of less than \$500 million and that is unaffiliated with a power supply borrower must provide a load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee which exceeds \$3 million or 5 percent of total utility plant, whichever is greater.

(e) A distribution borrower with a total utility plant of \$500 million or more must provide a load forecast in support of any request for RUS financing assistance. The borrower must also maintain a load forecast work plan. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower.

[84 FR 32610, July 9, 2019]

§ 1710.204 [Reserved]

§ 1710.205 Minimum requirements for all load forecasts.

(a) *Contents of load forecast.* All load forecasts submitted by borrowers for approval must include:

(1) A narrative describing the borrower's system, service territory, and consumers;

(2) A narrative description of the borrower's load forecast including future load projections, forecast assumptions, and the methods and procedures used to develop the forecast;

(3) Projections of usage by consumer class, number of consumers by class, annual system peak demand, and season of peak demand for the number of years agreed upon by RUS and the borrower;

(4) A summary of the year-by-year results of the load forecast in a format that allows efficient transfer of the information to other borrower planning or loan support documents;

(5) The load impacts of a borrower's demand side management and energy efficiency and conservation program activities, if applicable;

(6) Graphic representations of the variables specifically identified by management as influencing a borrower's loads; and

(7) A database that tracks all relevant variables that might influence a borrower's loads.

(b) *Formats.* RUS does not require a specific format for the narrative, documentation, data, and other information in the load forecast, provided that all required information is included and available. All data must be in a tabular form that can be transferred electronically to RUS computer software applications. RUS will evaluate borrower

load forecasts for readability, understanding, filing, and electronic access. If a borrower's load forecast is submitted in a format that is not readily usable by RUS or is incomplete, RUS will require the borrower to submit the load forecast in a format acceptable to RUS.

(c) *Document retention.* The borrower must retain its latest load forecasts and supporting documentation. Any load forecast work plan must be retained as part of the load forecast.

(d) *Consultation with RUS.* The borrower must designate and make appropriate staff and consultants available for consultation with RUS to facilitate RUS review of the load forecast when requested by RUS.

(e) *Correlation and consistency with other RUS loan support documents.* If a borrower relies on an approved load forecast or an update of an approved load forecast as loan support, the borrower must demonstrate that the approved load forecast and the other primary support documentation for the loan were reconciled. For example, both the load forecast and the financial forecast require input assumptions for wholesale power costs, distribution costs, other systems costs, average revenue per kWh, and inflation. Also, a borrower's engineering planning documents, such as the construction work plan, incorporate consumer and usage per consumer projections from the load forecast to develop system design criteria. The assumptions and data common to all the documents must be consistent.

(f) *Coordination.* A load forecast of a power supply borrower must consider the load forecasts of all its member systems.

[84 FR 32610, July 9, 2019]

§ 1710.206 Requirements for load forecasts prepared pursuant to a load forecast work plan.

(a) *Contents of load forecasts prepared under a load forecast work plan.* In addition to the minimum requirements for load forecasts under § 1710.205, load forecasts developed and submitted by borrowers required to have a load forecast work plan shall include the following:

(1) Scope of the load forecast. The narrative shall address the overall approach, time periods, and expected internal and external uses of the forecast. Examples of internal uses include providing information for developing or monitoring demand side management programs, supply resource planning, load flow studies, wholesale power marketing, retail marketing, cost of service studies, rate policy and development, financial planning, and evaluating the potential effects on electric revenues caused by competition from alternative energy sources or other electric suppliers. Examples of external uses include meeting state and Federal regulatory requirements, obtaining financial ratings, and participation in reliability council, power pool, regional transmission group, power supplier or member system forecasting and planning activities.

(2) Resources used to develop the load forecast. The discussion shall identify and discuss the borrower personnel, consultants, data processing, methods and other resources used in the preparation of the load forecast. The borrower shall identify the borrower's member and, as applicable, member personnel that will serve as project leaders or liaisons with the authority to make decisions and commit resources within the scope of the current and future work plans.

(3) A comprehensive description of the database used in the study. The narrative shall describe the procedures used to collect, develop, verify, validate, update, and maintain the data. A data dictionary thoroughly defining the database shall be included. The borrower shall make all or parts of the database available or otherwise accessible to RUS in electronic format, if requested.

(4) A narrative for each new load forecast or update of a load forecast discussing the methods and procedures used in the analysis and modeling of the borrower's electric system loads as provided for in the load forecast work plan.

(5) A narrative discussing the borrower's past, existing, and forecast of future electric system loads. The narrative must identify and explain substantive assumptions and other perti-

nent information used to support the estimates presented in the load forecast.

(6) A narrative discussing load forecast uncertainty or alternative futures that may determine the borrower's actual loads. Examples of economic scenarios, weather conditions, and other uncertainties that borrowers may decide to address in their analysis include:

- (i) Most-probable assumptions, with normal weather;
- (ii) Pessimistic assumptions, with normal weather;
- (iii) Optimistic assumptions, with normal weather;
- (iv) Most-probable assumptions, with severe weather;
- (v) Most-probable assumptions, with mild weather;
- (vi) Impacts of wholesale or retail competition; or
- (vii) new environmental requirements.

(7) A summary of the forecast's results on an annual basis. Include alternative futures, as applicable. This summary shall be designed to accommodate the transfer of load forecast information to a borrower's other planning or loan support documents. Computer-generated forms or electronic submissions of data are acceptable. Graphs, tables, spreadsheets or other exhibits shall be included throughout the forecast as appropriate.

(8) A narrative discussing the coordination activities conducted between a power supply borrower and its members, as applicable, and between the borrower and RUS.

(b) *Compliance with a load forecast work plan.* A borrower required to maintain a load forecast work plan must also be able to demonstrate that both it and its RUS borrower members are in compliance with its load forecast work plan.

[65 FR 14786, Mar. 20, 2000, as amended at 84 FR 32611, July 9, 2019]

§ 1710.207 RUS criteria for load forecasts by distribution borrowers.

Load forecasts submitted by distribution borrowers that are unaffiliated with a power supply borrower, or by distribution borrowers that are members of a power supply borrower that

Department of Agriculture

§ 1710.209

has a total utility plant less than \$500 million and that is not itself a member of another power supply borrower with a total utility plant of \$500 million or more must satisfy the following minimum criteria:

(a) The borrower considered all known relevant factors that influence the consumption of electricity and the known number of consumers served at the time the study was developed;

(b) The borrower considered and identified all loads on its system of RE Act beneficiaries and non-RE Act beneficiaries;

(c) The borrower developed an adequate supporting data base and considered a range of relevant assumptions; and

(d) The borrower provided RUS with adequate documentation and assistance to allow for a thorough and independent review.

[65 FR 14786, Mar. 20, 2000, as amended at 84 FR 32611, July 9, 2019]

§ 1710.208 RUS criteria for load forecasts by power supply borrowers and by distribution borrowers.

All load forecasts submitted by power supply borrowers and by distribution borrowers must satisfy the following criteria:

(a) The borrower objectively analyzed all known relevant factors that influence the consumption of electricity and the known number of customers served at the time the study was developed;

(b) The borrower considered and identified all loads on its system of RE Act beneficiaries and non-RE Act beneficiaries;

(c) The borrower developed an adequate supporting database and analyzed a reasonable range of relevant assumptions and alternative futures;

(d) The borrower adopted methods and procedures in general use by the electric utility industry to develop its load forecast;

(e) The borrower used valid and verifiable analytical techniques and models;

(f) The borrower provided RUS with adequate documentation and assist-

ance to allow for a thorough and independent review; and

[65 FR 14786, Mar. 20, 2000, as amended at 84 FR 32611, July 9, 2019]

§ 1710.209 Requirements for load forecast work plans.

(a) In addition to the load forecast required under §§ 1710.202 and 1710.203, any power supply borrower with a total utility plant of \$500 million or more and any distribution borrower with a total utility plant of \$500 million or more must maintain a load forecast work plan. RUS borrowers that are members of a power supply borrower with a total utility plant of \$500 million or more must cooperate in the preparation of and submittal of the load forecast work plan of their power supply borrower.

(b) A load forecast work plan establishes the process for the preparation and maintenance of a comprehensive database for the development of the borrower's load forecast, and load forecast updates. The load forecast work plan is intended to develop and maintain a process that will result in load forecasts that will meet the borrowers' own needs and the requirements of this subpart. A work plan represents a commitment by a power supply borrower and its members, or by a large unaffiliated distribution borrower, that all parties concerned will prepare their load forecasts in a timely manner pursuant to the load forecast work plan and they will modify the load forecast work plan as needed to address changing circumstances or enhance the usefulness of the load forecast work plan.

(c) A load forecast work plan for a power supply borrower and its members must cover all member systems, including those that are not borrowers. However, only members that are borrowers, including the power supply borrower, are required to follow the load forecast work plan in preparing their respective load forecasts. Each borrower is individually responsible for forecasting all its RE Act beneficiary and non-RE Act beneficiary loads.

(d) A load forecast work plan must outline the coordination and preparation requirements for both the power supply borrower and its members.

§ 1710.210

(e) A load forecast work plan must describe the borrower's process and methods to be used in producing the load forecast.

(f) Load forecast work plans for borrowers with residential demand of 50 percent or more of total kWh must provide for a residential consumer survey at least every 5 years to obtain data on appliance and equipment saturation and electricity demand. Any such borrower that is experiencing or anticipates changes in usage patterns shall consider surveys on a more frequent schedule. Power supply borrowers shall coordinate such surveys with their members. Residential consumer surveys may be based on the aggregation of member-based samples or on a system-wide sample, provided that the latter provides for relevant regional breakdowns as appropriate.

(g) Load forecast work plans must provide for RUS review of the load forecasts as the load forecast is being developed.

(h) A power supply borrower's work plan must have the concurrence of the majority of the members that are borrowers.

[84 FR 32611, July 9, 2019]

§ 1710.210 Waiver of requirements or approval criteria.

For good cause shown by the borrower, the Administrator may waive any of the requirements applicable to borrowers in this subpart if the Administrator determines that waiving the requirement will not significantly affect accomplishment of RUS' objectives and if the requirement imposes a substantial burden on the borrower. The borrower's general manager must request the waiver in writing.

§§ 1710.211–1710.249 [Reserved]

Subpart F—Construction Work Plans and Related Studies

§ 1710.250 General.

(a) An ongoing, integrated planning system is needed by borrowers to determine their short-term and long-term needs for plant additions, improvements, replacements, and retirements. The primary components of the system consist of long-range engineering

7 CFR Ch. XVI (1–1–21 Edition)

plans, construction work plans (CWPs), CWP amendments, and special engineering and cost studies. Long range engineering plans identify plant investments required over a period of 10–20 years or more. CWPs specify and document plant requirements for the short-term, usually 4 years, and special engineering and cost studies are used to support CWPs and to identify and document requirements for specific items or purposes, such as load management equipment, System Control and Data Acquisition equipment, sectionalizing investments, and additions of generation capacity and associated transmission plant.

(b) A long range engineering plan specifies and supports the major system additions, improvements, replacements, and retirements needed for an orderly transition from the existing system to the system required 10 or more years in the future. The planned future system should be based on the most technically and economically sound means of serving the borrower's long-range loads in a reliable and environmentally acceptable manner, and it should ensure that planned facilities will not become obsolete prematurely.

(c) A CWP shall include investment cost estimates and supporting engineering and cost studies to demonstrate the need for each proposed facility or activity and the reasonableness of the investment projections and the engineering assumptions used in sizing the facilities. The CWP must be consistent with the borrower's long range engineering plan and both documents must be consistent with the borrower's RUS-approved power requirements study.

(d) Applications for a loan or loan guarantee from RUS (new loans or budget reclassifications) must be supported by a current CWP approved by RUS. RUS approval of these plans relates only to the facilities, equipment, and other purposes to be financed by RUS, and means that the plans provide an adequate basis from a planning and engineering standpoint to support RUS financing. RUS approval of the plans does not mean that RUS approves of the facilities, equipment, or other purposes for which the borrower is not

Department of Agriculture

§ 1710.251

seeking RUS financing. If RUS disagrees with a borrower's estimate of the cost of one or more facilities for which RUS financing is sought, RUS may adjust the estimate after consulting with the borrower and explaining the reasons for the adjustment.

(e) Except as provided in paragraph (f) of this section, to be eligible for RUS financing, the facilities, including equipment and other items, included in a CWP must be approved by RUS and receive Environmental Clearance before the start of construction. This requirement also applies to any amendments to a CWP required to add facilities to a CWP or to make significant physical changes in the facilities already included in a CWP. Provision for funding of "minor projects" under an RUS loan guarantee is permitted on the same basis as that discussed for insured loan funds in 7 CFR part 1721, Post-Loan Policies and Procedures for Insured Electric Loans.

(f) In the case of damage caused by storms and other natural catastrophes, a borrower may proceed with emergency repair work before a CWP or CWP amendment is prepared by the borrower and approved by RUS, without losing eligibility for RUS financing of the repairs. The borrower must notify the RUS regional office in writing after the natural catastrophe, of its preliminary estimates of damages and repair costs. Not later than 120 days after the natural catastrophe, the borrower must submit to RUS for approval, a CWP or CWP amendment detailing the repairs.

(g) A CWP may be amended or augmented when the borrower can demonstrate the need for the changes.

(h) A borrower's CWP or special engineering studies must be supported by the appropriate level of environmental review documentation, in accordance with 7 CFR part 1970.

(i) All engineering activities required by this subpart must be performed by qualified engineers, who may be staff employees of the borrower or outside consultants. All engineering services must be reviewed by a licensed professional engineer.

(j) Upon written request from a borrower, RUS may waive in writing certain requirements with respect to long-

range engineering plans and CWPs if RUS determines that such requirements impose a substantial burden on the borrower and that waiving the requirements will not significantly affect the accomplishment of the objectives of this subpart. For example, if a borrower's load is forecast to remain constant or decline during the planning period, RUS may waive those portions of the plans that relate to load growth.

[84 FR 32611, July 9, 2019]

§ 1710.251 Construction work plans—distribution borrowers.

(a) All distribution borrowers must maintain a current CWP covering all new construction, improvements, replacements, and retirements of distribution and transmission plant, and improvements replacements, and retirements of any generation plant. Construction of new generation capacity need not be included in a CWP but must be specified and supported by specific engineering and cost studies. (See § 1710.253.)

(b) A distribution borrower's CWP shall cover a construction period of between 2 and 4 years, and include all facilities to be constructed which are eligible for RUS financing, whether or not RUS financial assistance will be sought or be available for certain facilities. Any RUS financing provided for the facilities will be limited to a 4 year loan period. The construction period covered by a CWP in support of a loan application shall not be shorter than the loan period requested for financing of the facilities.

(c) The facilities, equipment and other items included in a distribution borrower's CWP may include:

(1) Line extensions required to connect consumers, improve service reliability or improve voltage conditions;

(2) Distribution tie lines to improve reliability of service and voltage regulation;

(3) Line conversions and changes required to improve existing services or provide additional capacity for new consumers;

(4) New substation facilities or additions to existing substations;

(5) Transmission and substation facilities required to support the distribution system;

§ 1710.252

7 CFR Ch. XVI (1–1–21 Edition)

(6) Distribution equipment required to serve new consumers or to provide adequate and dependable service to existing consumers, including replacement of existing plant facilities;

(7) Residential security lights;

(8) Communications equipment and meters;

(9) Headquarters facilities;

(10) Improvements, replacements, and retirements of generation facilities;

(11) Load management equipment, automatic sectionalizing facilities, and centralized System Control and Data Acquisition equipment. Load management equipment eligible for financing, including the related costs of installation, is limited to capital equipment designed to influence the time and manner of consumer use of electricity, which includes peak clipping and load shifting. To be eligible for financing, such equipment must be owned by the borrower, although it may be located inside or outside a consumer's premises; and

(12) The cost of engineering, architectural, environmental and other studies and plans needed to support the construction of facilities, when such cost is capitalized as part of the cost of the facilities.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 60 FR 3731, Jan. 19, 1995; 60 FR 67405, Dec. 29, 1995; 84 FR 32612, July 9, 2019]

§ 1710.252 Construction work plans—power supply borrowers.

(a) All power supply borrowers must maintain a current CWP covering all new construction, improvements, replacements, and retirements of distribution and transmission plant, and improvements, replacements, and retirements of generation plant. Applications for RUS financial assistance for such facilities must be supported by a current, RUS-approved CWP. Construction of new generation capacity need not be included in a CWP but must be specified and supported by specific engineering and cost studies.

(b) Normally a power supply borrower's CWP shall cover a period of 3 to 4 years. While comprehensive CWP's are desired, if there are extenuating circumstances RUS may accept a single-purpose transmission or generation

CWP in support of a loan application or budget reclassification. The construction period covered by a CWP in support of a loan application shall not be shorter than the loan period requested for financing of the facilities.

(c) Facilities, equipment, and other items included in a power supply borrower's CWP may include:

(1) Distribution and related facilities as set forth in § 1710.251(c);

(2) Transmission facilities required to deliver the power needed to serve the existing and planned new loads of the borrower and its members, and to improve service reliability, including tie lines for improved reliability of service, line conversions, improvements and replacements, new substations and substation improvements and replacements, and Systems Control and Data Acquisition equipment, including communications, dispatching and sectionalizing equipment, and load management equipment;

(3) The borrower's proportionate share of transmission facilities required to tie together the operating systems of supporting power pools and to connect with adjacent power suppliers;

(4) Improvements and replacements of generation facilities; and

(5) The cost of engineering, architectural, environmental and other studies and plans needed to support the construction of facilities, when such cost is capitalized as part of the cost of the facilities.

(d) A CWP for transmission facilities shall normally include studies of load flows, voltage regulation, and stability characteristics to demonstrate system performance and needs.

[57 FR 1053, Jan. 9, 1992, as amended at 60 FR 3731, Jan. 19, 1995; 60 FR 67405, Dec. 29, 1995; 84 FR 32612, July 9, 2019]

§ 1710.253 Engineering and cost studies—addition of generation capacity.

(a) The construction or purchase of additional generation capacity and associated transmission facilities by a power supply or distribution borrower, including the replacement of existing capacity, shall be supported by comprehensive project-specific engineering and cost studies as specified by RUS.

Department of Agriculture

§ 1710.300

The studies shall cover a period from the beginning of the project to at least 10 years after the start of commercial operation of the facilities.

(b) The studies must include comprehensive economic present-value analyses of the costs and revenues of the available self-generation, load management, energy conservation, and purchased-power options, including assessments of service reliability and financing requirements and risks. An analysis of purchased power options, including an analysis of available alternate sources of power shall be included. The analysis should include the terms and conditions of any requests for proposals and responses to such requests.

(c) Generally, studies of self-generation, load management, and energy conservation options shall include, as appropriate, analyses of:

- (1) Capital and operating costs;
- (2) Financing requirements and risks;
- (3) System reliability;
- (4) Alternative unit sizes;
- (5) Alternative types of generation;
- (6) Fuel alternatives;
- (7) System stability;
- (8) Load flows; and
- (9) System dispatching.

(d) At the request of a borrower, RUS, in its sole discretion, may waive specific requirements of this section if such requirements imposed a substantial burden on the borrower and if such waiver will not significantly affect the accomplishment of the objectives of this subpart.

[57 FR 1053, Jan. 9, 1992, as amended at 84 FR 32612, July 9, 2019]

§ 1710.254 [Reserved]

§ 1710.255 Energy efficiency work plans—energy efficiency borrowers.

(a) All energy efficiency borrowers must maintain a current EEWP covering in aggregate all new construction, improvements, replacements, and retirements of energy efficiency related equipment and activities;

(b) An energy efficiency borrower's EEWP shall cover a period of between 2 and 4 years, and include all facilities to be constructed or improved which are eligible for RUS financing, whether or not RUS financial assistance will be

sought or be available for certain facilities. The construction period covered by an EEWP in support of a loan application shall not be shorter than the loan period requested for financing of the facilities;

(c) The borrower's EEWP may only include facilities, equipment and other activities that have been approved by RUS as a part of an Eligible Energy Efficiency and Conservation Program pursuant to subpart H of this part;

(d) The borrower's EEWP must be consistent with the documentation provided as part of the current RUS approved EE Program as outlined in § 1710.410(c); and

(e) The borrower's EEWP must include an estimated schedule for the implementation of included projects.

[78 FR 73366, Dec. 5, 2013, as amended at 84 FR 32612, July 9, 2019]

§§ 1710.256–1710.299 [Reserved]

Subpart G—Long-Range Financial Forecasts

§ 1710.300 General.

(a) RUS encourages borrowers to maintain a current long-range financial forecast. The forecast should be used by the board of directors and the manager to guide the system towards its financial goals.

(b) A borrower must prepare, for RUS review and approval, a long-range financial forecast in support of its loan application. The forecast must demonstrate that the borrower's system is economically viable and that the proposed loan is financially feasible. Loan feasibility will be assessed based on the criteria set forth in § 1710.112.

(c) The financial forecast and related projections submitted in support of a loan application shall include:

(1) The projected results of future actions planned by the borrower's board of directors;

(2) The financial goals established for margins, TIER, DSC, equity, and levels of general funds to be invested in plant;

(3) A pro forma balance sheet, statement of operations, and general funds summary projected for each year during the forecast period;

(4) A full explanation of the assumptions, supporting data, and analysis

§ 1710.301

7 CFR Ch. XVI (1–1–21 Edition)

used in the forecast, including the methodology used to project loads, rates, revenue, power costs, operating expenses, plant additions, and other factors having a material effect on the balance sheet and on financial ratios such as equity, TIER, and DSC;

(5) Current and projected cash flows;

(6) Projections of future borrowings and the associated interest and principal expenses required to meet the projected investment requirements of the system;

(7) Current and projected kW and kWh energy sales;

(8) Current and projected unit prices of significant variables such as retail and wholesale power prices, average labor costs, and interest;

(9) Current and projected system operating costs, including, but not limited to, wholesale power costs, depreciation expenses, labor costs, and debt service costs;

(10) Current and projected revenues from sales of electric power and energy;

(11) Current and projected non-operating income and expense;

(12) A discussion of the historical experience of the borrower, and in the case of a power supply borrower its member systems as appropriate, with respect to the borrower's market competitiveness as it relates to the rates charged for electricity, competition from other fuels, and other factors. Additional data and analysis may be required by RUS on a case by case basis to assess the probable future competitiveness of those borrowers that have a history of serious competitive problems; and

(13) An analysis of the effects of major factors, such as projected increases in rates charged for electricity, on the ability of the borrower, and in the case of a power supply borrower its member systems, to compete with neighboring utilities and other energy sources.

(d) The following plans, studies and assumptions shall be used in developing the financial forecast:

(1) The RUS-approved CWP;

(2) RUS-approved power requirements data;

(3) RUS-approved EE Program work plan;

(4) The current rate schedules or new rates;

(5) Future plant additions and operating expenses projected at anticipated future cost levels rather than in constant dollars, with the annual rate of inflation for major items specified; and

(6) A sensitivity analysis may be required by RUS on a case-by-case basis taking into account such factors as the number and type of large power loads, projections of future borrowings and the associated interest, projected loads, projected revenues, and the probable future competitiveness of the borrower. When RUS determines that a sensitivity analysis is necessary for distribution borrowers, the variables to be tested will be determined by the General Field Representative in consultation with the borrower and the regional office. The regional office will consult with the Power Supply Division in the case of generation projects for distribution borrowers. For power supply borrowers, the variables to be tested will be determined by the borrower and the Power Supply Division.

(e) The financial forecast shall use the accrual method, as approved by RUS, for analyzing costs and revenues, and, as applicable, compare the economic results of the various alternatives on a present value basis.

[57 FR 1053, Jan. 9, 1992, as amended at 63 FR 53277, Oct. 5, 1998; 78 FR 73366, Dec. 5, 2013; 84 FR 32612, July 9, 2019]

§ 1710.301 Financial forecasts—distribution borrowers.

(a) Financial forecasts prepared by distribution borrowers shall cover at least a ten-year period, unless a shorter period is authorized by other RUS regulations.

(b) In addition to the requirements set forth in § 1710.300 of this part, financial forecasts prepared by distribution borrowers in support of a loan application shall:

(1) Include expenditures for any maintenance determined to be needed in the current system's operation and maintenance review and evaluation in order to comply with mortgage covenants and prudent utility practice;

(2) Fully explain the basis for the power cost projections used. Generally,

Department of Agriculture

§ 1710.303

the power supplier's most recent forecasted rates shall be used; and

(3) Use RUS Form 325 or computer-generated equivalent reports.

§ 1710.302 Financial forecasts—power supply borrowers.

(a) The requirements of this section apply only to financial forecasts submitted by power supply borrowers in support of a loan from RUS. The financial forecast prepared by power supply borrowers shall demonstrate the effects that the addition of generation, transmission and any distribution facilities will have on the power supply borrower's sales, costs, and revenues, and on the cost of power to the member distribution systems.

(b) The financial forecast shall cover a period of 10 years. RUS may request projections for a longer period of time if RUS deems necessary.

(c) Financial forecasts prepared in support of loan applications to finance additional generation capacity shall include a power cost study as set forth in § 1710.303.

(d) In addition to the requirements set forth in § 1710.300, financial forecasts prepared by power supply borrowers shall:

(1) Identify all plans for generation and transmission capital additions and system operating expenses on a year-by-year basis, beginning with the present and running for 10 years, unless a longer period of time has been requested by RUS.

(2) Integrate projections of operation and maintenance expenses associated with existing plant with those of new proposed facilities to determine total costs of system operation as well as the costs of new generation and generation-related facilities;

(3) Provide an in-depth analysis of the regional markets for power if loan feasibility depends to any degree on a borrower's ability to sell surplus power while its system loads grow to meet the planned capacity of a proposed plant;

(4) If not previously submitted, furnish RUS with all material information on operating agreements, ownership agreements, fuel contracts and any other special agreements that affect annual cost projections, as may be

required by RUS on a case by case basis; and

(5) Include sensitivity analysis if required by RUS pursuant to § 1710.300(d)(6).

(e) The projections shall be coordinated in advance with RUS so that agreement can be reached on major aspects of the economic studies. These include, but are not limited to, projections of future kW and kWh requirements, RE Act beneficiary loads, electricity prices, revenues from system and off-system power sales, the cost of prospective plant additions, interest and depreciation rates, fuel costs, cost escalation factors, the discount rate, and other factors.

(f) The projections, analysis, and supporting information must be included in a report that will provide RUS with the information needed to:

(1) Understand and compare various power supply plans;

(2) Determine that the facilities to be financed will perform satisfactorily; and

(3) Determine that the overall system is economically viable and the loan is financially feasible and secure.

[57 FR 1053, Jan. 9, 1992, as amended at 63 FR 53278, Oct. 5, 1998; 78 FR 73366, Dec. 5, 2013]

§ 1710.303 Power cost studies—power supply borrowers.

(a) All applications for financing of additional generation capacity and the associated bulk transmission facilities shall be supported by a power cost study to demonstrate that the proposed generation and associated transmission facilities are the most economical and effective means of meeting the borrower's power requirements. This study usually is a separate study but it may be integrated with the financial forecast required by § 1710.302.

(b) A power cost study shall include the following basic elements:

(1) A study of all reasonably available self-generation, purchased-power, load management, and energy conservation alternatives as set forth in §§ 1710.253 and 1710.254;

(2) A present-value analysis of the costs of the alternatives and their effects on total power costs, covering a period of at least 10 years beyond the

projected in-service date of the facilities;

(3) A description of proposed new power-purchase contracts or revisions to existing contracts, and an analysis of the effects on power costs;

(4) Use of sensitivity analyses to determine the vulnerability of the alternatives to a reasonable range of assumptions about fuel costs, failure to achieve projected load growth, changes in operating and financing costs, and other major factors, if the financial forecast is used in support of a loan or loan guarantee that exceeds the smaller of \$25 million or 10 percent of the borrower's total utility plant. Individual sensitivity analyses need not be duplicated if they have been included in other materials submitted to RUS; and

(5) Assessment of the financial risks of the various alternatives, especially as between capital-intensive and non-capital-intensive alternatives, under the range of assumptions set forth in paragraph (b)(4) of this section.

(c) Power cost studies must use current, RUS-approved power requirements data, and all major assumptions are subject to RUS approval. Alternative assumptions about projected power requirements may be used, however, in conjunction with the sensitivity analyses required by paragraph (b)(4) of this section.

(Approved by the Office of Management and Budget under control number 0572-0032)

§§ 1710.304–1710.349 [Reserved]

Subpart H—Energy Efficiency and Conservation Loan Program

SOURCE: 78 FR 73366, Dec. 5, 2013, unless otherwise noted.

§ 1710.400 Purpose.

(a) This subpart establishes policies and requirements that apply to loans and loan guarantees to finance Energy Efficiency and Conservation programs (EE Programs) undertaken by an eligible utility system to finance Demand side management, energy efficiency and conservation, or on-grid and off-grid renewable energy system programs that will result in the better management of their system load

growth, a more beneficial load profile, or greater optimization of the use of alternative energy resources in their service territory. These programs may be considered an essential utility service.

(b)(1) The goals of an eligible Energy Efficiency project eligible for funding under this program and Subpart H include:

(i) Increasing energy efficiency at the end user level;

(ii) Modifying electric load such that there is a reduction in overall system demand;

(iii) Effecting a more efficient use of existing electric distribution, transmission and generation facilities;

(iv) Attracting new businesses and creating jobs in rural communities by investing in energy efficiency; and

(v) Encouraging the use of renewable energy fuels for either Demand side management or the reduction of conventional fossil fuel use within the service territory.

(2) Although not a goal, RUS recognizes that there will be a reduction of green house gases with energy efficiency improvements.

§ 1710.401 RUS policy.

EE Programs under this subpart may be financed at the distribution level or by an electric generation and transmission provider. RUS encourages borrowers to coordinate with the relevant member systems regarding their intention to implement a program financed under this subpart. RUS also encourages borrowers to leverage funds available under this subpart with State, local, or other funding sources that may be available to implement such programs.

§ 1710.402 Scope.

This subpart adapts and modifies, but does not supplant, the requirements for all borrowers set forth elsewhere where the purpose of the loan is to finance an approved EE program. In the event there is overlap or conflict between this subpart and the provisions of this part 1710 or other parts of the Code of Federal Regulations, the provisions of this subpart will apply for loans made or guaranteed pursuant to this subpart.

Department of Agriculture

§ 1710.404

§ 1710.403 General.

EE Programs financed under this subpart may be directed at all forms of energy consumed within a utility's service territory, not just electricity, where the electric utility is in a position to facilitate the optimization of the energy consumption profile within its service territory and do so in a way that enhances the financial or physical performance of the rural electric system and enables the repayment of the energy efficiency loan.

§ 1710.404 Definitions.

For the purpose of this subpart, the following terms shall have the following meanings. In the event there is overlap or conflict between the definitions contained in § 1710.2, the definitions set forth below will apply for loans made or guaranteed pursuant to this subpart.

British thermal unit (Btu) means the quantity of heat required to raise one pound of water one degree Fahrenheit.

Certified energy auditor for commercial and industrial energy efficiency improvements. (1) An energy auditor shall meet one of the following criteria:

(i) An individual possessing a current commercial or industrial energy auditor certification from a national, industry-recognized organization;

(ii) A Licensed Professional Engineer in the State in which the audit is conducted with at least 1 year experience and who has completed at least two similar type Energy Audits;

(iii) An individual with a four-year engineering or architectural degree with at least 3 years experience and who has completed at least five similar type Energy Audits; or

(iv) Beginning in calendar year 2015, an energy auditor certification recognized by the Department of Energy through its Better Buildings Workforce Guidelines project.

(2) For residential energy efficiency improvements, an energy auditor shall meet one of the following criteria: The workforce qualification requirements of the Home Performance with Energy Star Program, as outlined in Section 3 of the Home Performance with Energy Star Sponsor Guide; or an individual possessing a current residential energy

auditor or building analyst certification from a national, industry-recognized organization.

Cost effective means the aggregate cost of an EE Program is less than the financial benefit of the program over time. The cost of a program for this purpose shall include the costs of incentives, measurement and verification activity and administrative costs, and the benefits shall include, without limitation, the value of energy saved, the value of corresponding avoided generation, transmission or distribution and reserve investments as may be displaced or deferred by program activities, and the value of corresponding avoided greenhouse gas emissions and other pollutants.

Demand means the electrical load averaged over a specified interval of time. Demand is expressed in kilowatts, kilovolt amperes, kilovars, amperes, or other suitable units. The interval of time is generally 15 minutes, 30 minutes, or 60 minutes.

Demand savings means the quantifiable reduction in the load requirement for electric power, usually expressed in kilowatts (kW) or megawatts (MW) such that it reduces the cost to serve the load.

Eligible borrower means a utility system that has direct or indirect responsibility for providing retail electric service to persons in a rural area. This definition includes existing borrowers and utilities who meet current RUS borrower requirements.

Energy audit means an inspection and analysis of energy flows in a building, process, or system with the goal of identifying opportunities to enhance energy efficiency. The activity should result in an objective standard-based technical report containing recommendations for improving the energy efficiency. The report should also include an analysis of the estimated benefits and costs of pursuing each recommendation and the simple payback period.

Energy efficiency and conservation measures means equipment, materials and practices that when installed and used at a Consumer's premises result in a verifiable reduction in energy consumption, measured in Btus, or demand as measured in Btu-hours, or

§ 1710.405

7 CFR Ch. XVI (1–1–21 Edition)

both, at the point of purchase relative to a base level of output. The ultimate goal is the reduction of utility or consumer energy needs.

Energy efficiency and conservation program (EE Program) means a program of activities undertaken or financed by a utility within its service territory to reduce the amount or rate of energy used by Consumers relative to a base level of output.

HVAC means heating, ventilation, and air conditioning.

Load means the Power delivered to power utilization equipment performing its normal function.

Load factor means the ratio of the average load over a designated period of time to the peak load occurring in the same period.

Peak demand (or maximum demand) means the highest demand measured over a selected period of time, e.g., one month.

Peak demand reduction means a decrease in electrical demand on an electric utility system during the system's peak period, calculated as the reduction in maximum average demand achieved over a specified interval of time.

Power means the rate of generating, transferring, or using energy. The basic unit is the watt, where one Watt is approximately 3.41213 Btu/hr.

Re-lamping means the initial conversion of bulbs or light fixtures to more efficient lighting technology but not the replacement of like kind bulbs or fixtures after the initial conversion.

SI means the International System of Units; the modern metric system.

Smart Grid Investments means capital expenditures for devices or systems that are capable of providing real time, two way (utility and Consumer) information and control protocols for individual Consumer owned or operated appliances and equipment, usually through a Consumer interface or smart meter.

Ultimate recipient means a Consumer that receives a loan from a borrower under this subpart.

Utility Energy Services Contract (UESC) means a contract whereby a utility provides a Consumer with comprehensive energy efficiency improvement services or demand reduction services.

Utility system means an entity in the business of providing retail electric service to Consumers (distribution entity) or an entity in the business of providing wholesale electric supply to distribution entities (generation entity) or an entity in the business of providing transmission service to distribution or generation entities (transmission entity), where, in each case, the entities provide the applicable service using self-owned or controlled assets under a published tariff that the entity and any associated regulatory agency may adjust.

Watt means the SI unit of power equal to a rate of energy transfer (or the rate at which work is done), of one joule per second.

§ 1710.405 Eligible energy efficiency and conservation programs.

(a) *General.* Eligible EE Programs shall:

(1) Be developed and implemented by an Eligible borrower and applied within its service territory;

(2) Consist of eligible activities and investments as provided in § 1710.406

(3) Provide for the use of State and local funds where available to supplement RUS loan funds;

(4) Incorporate the applicant's policy applicable to the interconnection of distributed resources;

(5) Incorporate a business plan that meets the requirements of § 1710.407;

(6) Incorporate a quality assurance plan that meets the requirements of § 1710.408;

(7) Demonstrate that the program can be expected to be Cost effective;

(8) Demonstrate that the program will have a net positive or neutral cumulative impact on the borrower's financial condition over the time period contemplated in the analytical support documents demonstrating that the net present value of program costs incurred by the borrower are positive, pursuant to § 1710.411;

(9) Demonstrate energy savings or peak demand reduction for the service territory overall; and

(10) Be approved in writing by RUS prior to the investment of funds for which reimbursement will be requested.

Department of Agriculture

§ 1710.406

(b) *Financial Structures.* Eligible EE Programs may provide for direct recoupment of expenditures for eligible activities and investment from Ultimate Recipients as follows:

(1) Loans made to Ultimate Recipients located in a rural area where —

(i) The Ultimate Recipients may be wholesale or retail;

(ii) The loans may be secured or unsecured;

(iii) The loan receivables are owned by the Eligible Borrower;

(iv) The loans are made or serviced directly by the Eligible Borrower or by a financial institution pursuant to a contractual relationship between the Eligible Borrower and the financial institution;

(v) Due diligence is performed to confirm the repayment ability of the Ultimate Recipient;

(vi) Loans are funded only upon completion of the project financed or to reimburse startup costs that have been incurred;

(vii) The rate charged the Ultimate Recipient is less than or equal to the direct Treasury rate established daily by the United States Treasury pursuant to §1710.51(a)(1) or §1710.52, as applicable, plus the borrower's interest rate from RUS and 1.5 percent. Exceptions will be made on a case-by-case basis to ensure repayment of the government's loan and must be clearly articulated in the business plan RUS will not accept an exception request if the loan is feasible at 1.5 percent; and

(viii) Loans are not used to refinance a preexisting loan.

(2) A tariff that is specific to an identified rural Consumer, premise or class of ratepayer; or

(3) On bill repayment and other financial recoupment mechanisms as may be approved by RUS.

(c) *Period of performance*—(1) *Performance standards.* (i) Eligible EE Programs activities that are listed under §1710.406(b) should be designed to achieve the applicable operating performance standards within one year of the date of installation of the facilities.

(ii) All activities other than those included in paragraph (c)(1)(i) of this section should be designed to achieve the applicable operating performance tar-

gets within the time period contemplated by the analytic support documents for the overall EE Program as approved by RUS.

(2) *Cost effectiveness.* Eligible EE Programs must demonstrate that Cost effectiveness as measured for the program overall will be achieved within ten years of initial funding, except in cases where the useful life of the technology on an aggregate basis can be demonstrated to be longer than the ten year period. RUS will evaluate the useful life assumption on a case-by-case basis.

§ 1710.406 Eligible activities and investments.

(a) *General.* Eligible program activities and investments:

(1) Shall be designed to improve energy efficiency and/or reduce peak demand on the customer side of the meter;

(2) Shall be Cost effective in the aggregate after giving effect to all activities and investments contemplated in the approved EE Program; and

(3) May apply to all Consumer classes.

(b) *Eligible activities and investments.* Eligible program activities and investments may include, but are not limited to, the following:

(1) Energy efficiency and conservation measures where assets financed at an Ultimate Recipient premises can be characterized as an integral part of the real property that would typically transfer with the title under applicable state law. Where applicable, it is anticipated that the loan obligation would also be expected to transfer with ownership of the metered account serving that property.

(2) Renewable Energy Systems, including —

(i) On or Off Grid Renewable energy systems;

(ii) Fuel cells;

(3) Demand side management (DSM) investments including Smart Grid Investments;

(4) Energy audits;

(5) Utility Energy Services Contracts;

(6) Consumer education and outreach programs;

§ 1710.407

7 CFR Ch. XVI (1–1–21 Edition)

(7) Power factor correction equipment on the Ultimate Recipient side of the meter;

(8) Re-lamping to more energy efficient lighting; and

(9) Fuel Switching as in:

(i) The replacement of existing fuel consuming equipment using a particular fuel with more efficient fuel consuming equipment that uses another fuel but which does not increase direct greenhouse gas emissions; or

(ii) The installation of non-electric fuel consuming equipment to facilitate management of electric system peak loads. Fuel switching to fossil or biomass fueled electric generating equipment is expressly excluded.

(10) Other activities and investments as approved by RUS as part of the EE Program such as, but not limited to, pre-retrofit improvements.

(c) *Intermediary lending.* EE Program loan funds may be used for direct re-lending to Ultimate Recipients where the requirements of §1710.405(b) are met.

(d) *Performance standards.* Borrowers are required to use Energy Star qualified equipment where applicable or meet or exceed efficiency requirements designated by the Federal Energy Management Program.

§ 1710.407 Business plan.

An Eligible EE Program must have a business plan for implementing the program. The business plan is expected to have a global perspective on the borrower's energy efficiency plan. Therefore, energy efficiency upgrades should be identified in aggregate. The business plan must have the following elements:

(a) *Executive summary.* The executive summary shall capture the overall objectives to be met by the Eligible EE Program and the timeframe in which they are expected to be achieved.

(b) *Organizational background.* The background section shall include descriptions of the management team responsible for implementing the Eligible EE Program.

(c) *Marketing plan.* The marketing section should identify the target Consumers, promotional activities to be pursued and target penetration rates by Consumer category and investment activity.

(d) *Operations plan.* The operations plan shall include but is not limited to:

(1) A list of the activities and investments to be implemented under the EE Program and the Btu savings goal targeted for each category;

(2) An estimate of the dollar amount of investment by the utility for each category of activities and investments listed under paragraph (d)(1) of this section;

(3) A staffing plan that identifies whether and how outsourced contractors or subcontractors will be used to deliver the program;

(4) A description of the process for documenting and perfecting collateral arrangements for Ultimate Recipient loans, if applicable; and

(5) The overall Btu savings to be accomplished over the life of the EE Program.

(e) *Financial plan.* The financial plan shall include but is not limited to:

(1) A schedule showing sources and uses of funds for the program;

(2) An itemized budget for each activity and investment category listed in the operations plan;

(3) An aggregate Cost effectiveness forecast;

(4) Where applicable, provision for Ultimate Recipient loan loss reserves. These loan loss reserves will not be funded by RUS. Loan loss reserves are not required when a utility will not be relending RUS funds.

(5) Identify expected Ultimate Recipient loan delinquency and default rates and report annually on deviations from the expected rates.

(f) *Risk analysis.* The business plan shall include an evaluation of the financial and operational risk associated with the program, including an estimate of prospective Consumer loan losses consistent with the loan loss reserve to be established pursuant to paragraph (e)(4) of this section.

(g) The borrowers are strongly encouraged to follow a bulletin or such other publication as RUS deems appropriate that contains and describes best practices for energy efficiency business plans. RUS will make this bulletin or publication publicly available and revise it from time-to-time as RUS deems it necessary.

§ 1710.408 Quality assurance plan.

An eligible EE program must have a quality assurance plan as part of the program. The quality assurance plan is expected to have a global perspective on the borrower's energy efficiency plan. Therefore, energy efficiency upgrades should be identified in aggregate. Every effort is made to fund only EE programs that are administered in accordance with quality assurance plans meeting standards designed to achieve the purposes of this subpart. However, RUS and its employees assume no legal liability for the accuracy, completeness or usefulness of any information, product, service, or process funded directly or indirectly with financial assistance provided under this subpart. Nothing in the loan documents between RUS and the energy efficiency borrower shall confer upon any other person any right, benefit or remedy of any nature whatsoever. Neither RUS nor its employees makes any warranty, express or implied, including the warranties of merchantability and fitness for a particular purpose, with respect to any information, product, service, or process available from an energy efficiency borrower. The approval by RUS and its employees of an energy efficiency borrower's quality assurance plan is solely for the benefit of RUS. Approval of the quality assurance plan does not constitute an RUS endorsement. The quality assurance plan must have the following elements:

- (a) Quality assurance assessments shall include the use of qualified energy managers or professional engineers to evaluate program activities and investments;
- (b) Where applicable, program evaluation activities should use the protocols for determining energy savings as developed by the U.S. Department of Energy in the Uniform Methods Project.
- (c) Energy audits shall be performed for energy efficiency investments involving the building envelope at an Ultimate Recipient premises;
- (d) Energy audits must be performed by certified energy auditors; and
- (e) Follow up audits shall be performed within one year after installation on a sample of investments made

to confirm whether efficiency improvement expectations are being met.

(f) In cases involving energy efficiency upgrades to a single system (such as a ground source heat pump) the new system must be designed and installed by certified and insured professionals acceptable to the utility.

(g) Industry or manufacturer standard performance tests, as applicable, shall be required on any system upgraded as a result of an EE Program. This testing shall indicate the installed system is meeting its designed performance parameters.

(h) In some programs the utility may elect to recommend independent contractors who can perform energy efficiency related work for their customers. In these cases utilities shall monitor the work done by the contractors and confirm that the contractors are performing quality work. Utilities should remove substandard contractors from their recommended lists if the subcontractors fail to perform at a satisfactory level. RUS does not endorse or recommend any particular independent contractors.

(i) Contractors not hired by the utility may not act as agents of the utility in performing work financed under this subpart.

(j) The borrowers are strongly encouraged to follow a bulletin or other publication that RUS deems appropriate and contains and describes best practices for energy efficiency quality assurance plans. RUS will make this bulletin or publication publicly available and revise it from time-to-time as RUS deems it necessary.

§ 1710.409 Loan provisions.

(a) *Loan term.* The maximum term for loans under this subpart shall be 15 years unless the loans relate to ground source loop investments or technology on an aggregate basis that has a useful life greater than 15 years. Ground source loop investments as the term is used in this paragraph do not include ancillary equipment related to ground source heat pump systems.

(b) *Loan feasibility.* Loan feasibility must be demonstrated for all loans made under this subpart. Loans made under this subpart shall be secured.

§ 1710.410

(c) *Reimbursement for completed projects.* (1) A borrower may request an initial advance not to exceed five percent of the total loan amount for working capital purposes to implement an eligible EE Program;

(2) Except for the initial advance provided for in paragraph (c)(1) of this section, all advances under this subpart shall be used for reimbursement of expenditures relating to a completed activity or investment; and

(3) Advances shall be in accordance with RUS procedures.

(d) *Loan amounts.* (1) Cumulative loan amounts outstanding under this subpart will be determined by the Assistant Administrator of the Electric Program and based on an applicant's business plan; and

(2) Financing for administrative costs may not exceed 5 percent of the total loan amount.

(3) The Rural Utilities Service reserves the right to place a cap on both the total amount of funds an eligible entity can apply for, as well as a cap on the total amount of funds the Energy Efficiency and Conservation Program can utilize in the appropriations.

§ 1710.410 Application documents.

The required application documentation listed in this section is not all inclusive but is specific to Eligible borrowers requesting a loan under this subpart and in most cases is supplemental to the general requirements for loan applications provided for in this part 1710:

(a) A letter from the Borrower's General Manager requesting a loan under this subpart.

(b) A copy of the statement establishing the EE Program that reflects an undertaking that funds collected in excess of then current amortization requirements for the related RUS loan will be redeployed for EE Program purposes or used to prepay the RUS loan.

(c) Current RUS-approved EE Program documentation that includes:

(1) A Business Plan that meets the requirements of § 1710.407;

(2) A Quality Assurance Plan that meets the requirements of § 1710.408;

(3) Analytical support documentation that meets the requirements of § 1710.411;

7 CFR Ch. XVI (1–1–21 Edition)

(4) A copy of RUS' written approval of the EE Program.

(d) An EE program work plan that meets the requirements of § 1710.255;

(e) A statement of whether an initial working capital advance pursuant to § 1710.409(c)(1) is included in the loan budget together with a schedule of how these funds will be used.

(f) A proposed draft Schedule C pursuant to 7 CFR part 1718 that lists assets to be financed under this subpart as excepted property under the RUS mortgage, as applicable.

[78 FR 73366, Dec. 5, 2013, as amended at 84 FR 32613, July 9, 2019]

§ 1710.411 Analytical support documentation.

Applications for loans under this subpart may only be made for eligible activities and investments included in an RUS-approved EE Program. In addition to a business plan and operations plan, a request for EE program approval must include analytical support documentation that demonstrates the program meets the requirements of § 1710.303 and assures RUS of the operational and financial integrity of the EE Program. This documentation must include, but is not necessarily limited to, the following:

(a) A comparison of the utility's projected annual growth in demand after incorporating the EE Program together with an updated baseline forecast on file with RUS, where each includes an estimate of energy consuming devices used by customers in the service territory and a specific time horizon as determined by the utility for meeting the performance objectives established by them for the EE Program;

(b) Demonstration that the required periods of performance under § 1710.405(c) can reasonably be expected to be met;

(c) A report of discussions and coordination conducted with the power supplier, where applicable, issues identified as a result, and the outcome of this effort.

(d) An estimate of the amount of direct investment in utility-owned generation that will be deferred as a result of the EE Program;

Department of Agriculture

§ 1710.501

(e) A description of efforts to identify state and local sources of funding and, if available, how they are to be integrated in the financing of the EE Program; and

(f) Copies of sample documentation used by the utility in administering its EE Program.

(g) Such other documents and reports as the Administrator may require.

§ 1710.412 Borrower accounting methods, management reporting, and audits.

Nothing in this subpart changes a Borrower's obligation to comply with RUS's accounting, monitoring and reporting requirements. In addition thereto, the Administrator may also require additional management reports that provide the agency with a means of evaluating the extent to which the goals and objectives identified in the EE Plan are being accomplished.

§ 1710.413 Compliance with other laws and regulations.

Nothing in this subpart changes a Borrower's obligation to comply with all laws and regulations to which it is subject.

§§ 1710.414–1710.499 [Reserved]

Subpart I—Application Requirements and Procedures for Loans

SOURCE: 60 FR 3731, Jan. 19, 1995, unless otherwise noted.

§ 1710.500 Initial contact.

(a) Loan applicants that do not have outstanding loans from RUS should contact the Rural Utilities Service via Email at RUSElectric@wdc.usda.gov, call RUS at (202) 720-9545 or write to the Rural Utilities Service Administrator, United States Department of Agriculture, 1400 Independence Ave. SW, STOP 1560, Room 5165, Washington, DC 20250-1560. Loan Applicants may also visit RUS' website to locate a local General Field Representative at <https://www.rd.usda.gov/contact-us/electric-gfr>. A field or headquarters staff representative may be assigned by RUS to visit the applicant and discuss its financial needs and eligibility. Bor-

rowers that have outstanding loans should contact their assigned RUS general field representative (GFR) or, in the case of a power supply borrower, Deputy Assistant Administrator, Office of Loan Origination and Approval. Borrowers may consult with RUS field representatives and headquarters staff, as necessary.

(b) Before submitting an application for an insured loan the borrower shall ascertain from RUS the amount of supplemental financing required, as set forth in § 1710.110. If the borrower is applying for either a municipal rate loan subject to the interest rate cap or a hardship rate loan, the application must provide a preliminary breakdown of residential consumers either by county or by census tract. Final data must be included with the application. See § 1710.401(a)(8).

[60 FR 3731, Jan. 19, 1995. Redesignated at 78 FR 73366, Dec. 5, 2013, as amended at 84 FR 32613, July 9, 2019]

§ 1710.501 Loan application documents.

(a) *All borrowers.* Borrowers may be eligible to submit their loan application via RUS' electronic application intake system instead of submitting a paper submission. Please consult your GFR in accordance with § 1710.500. All applications for electric loans shall include the documents listed in this paragraph (a).

(1) *Loan application letter.* A letter signed by the borrower's manager indicating the actual corporate name, the borrowers RUS Designation, the borrowers RUS Loan Designation, and taxpayer identification number of the borrower and addressing the following items:

(i) The amount of loan and loan type. The sources and amounts of any supplemental or other financing. For an insured loan, a statement of whether the application is for a municipal rate loan, with or without the interest rate cap, or a hardship loan. If the application is for a municipal rate loan, the board resolution must indicate whether the borrower intends to elect the prepayment option. See 7 CFR 1714.4(c);

(ii) The Maturity Date/Term of the Loan in number of years (useful life to determine maximum);

(iii) A short description of the purpose of the loan, *i.e.*, generation, distribution, transmission, energy efficiency, etc;

(iv) Method of Amortization;

(v) The Borrower's DUNS Number;

(vi) The Borrower's Organization Number from its State Corporation Commission or similar entity;

(vii) The Borrower's Exact Legal Name (please state the legal name and identify the legal document used to state the name or attach such document);

(viii) List of current counties where real property is located;

(ix) Attach current property schedule;

(x) Identify any new counties with property since last loan;

(xi) Authorized/registered place of business;

(xii) Debt Limit;

(xiii) Identify any State regulatory approvals needed;

(xiv) List any subsidiaries;

(xv) Identify any material financial or other material change since last loan, including a list of any pending litigation and where there is insurance to cover such;

(xvi) Breakdown of loan funds by State;

(xvii) Construction Work Plan (CWP), if not previously submitted through RD Apply or other method;

(xviii) Environmental Report (ER), if not previously submitted through RD Apply or other method;

(xix) Statement authorizing RUS to release appropriate information and data relating to the loan application to the FFB and any existing supplemental lenders.

(2) *Special resolutions.* Included any special resolutions required by Federal or State Authorities and any others as identified and required by the RUS General Field Representative (for example, use of contractors, corrective action plans, etc.)

(3) *RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers.* This form together with its attachments lists the construction, equipment, facilities and other cost estimates from the construction work plan or engineering and cost studies. The date on page 1 of the form is the beginning date

of the loan period. Form 740c also includes the following information, exhibits, and attachments:

(i) *Description of funds and materials.* This description details the availability of materials and equipment, any unadvanced funds from prior loans, and any general funds the borrower designates, to determine the amount of such materials and funds to be applied against the capital requirements estimated for the loan period.

(ii) *Useful life of facilities financed by the loan.* Form 740c must include, as a note, either a statement certifying that at least 90 percent of the loan funds are for facilities that have a useful life of 33 years or longer, or a schedule showing the costs and useful life of those facilities with a useful life of less than 33 years. This statement or schedule will be used to determine the final maturity of the loan. See § 1710.115.

(iii) *Reimbursement schedule.* This schedule lists the date, amount, and identification number of each inventory of work orders and special equipment summary that form the basis for the borrower's request for reimbursement of general funds on the RUS Form 740c. See § 1710.109. If the borrower is not requesting reimbursement, this schedule need not be submitted.

(iv) *Location of consumers.* If the application is for a municipal rate loan subject to the interest rate cap, or for a loan at the hardship rate, and the average number of consumers per mile of the total electric system exceeds 17, Form 740c must include, as a note, a breakdown of funds included in the proposed loan to furnish or improve service to consumers located in an urban area. See 7 CFR 1714.7(c) and 1714.8(d). This breakdown must indicate the method used by the borrower for allocating loan funds between urban and non-urban consumers.

(4) *RUS Form 740g, Application for Headquarters Facilities.* This form lists the individual cost estimates from the construction work plan or other engineering study that support the need for RUS financing for any warehouse and service type facilities included, and funding requested for such facilities shown on RUS Form 740c. If no loan funds are requested for headquarters

Department of Agriculture

§ 1710.501

facilities, Form 740g need not be submitted.

(5) *Financial and statistical report.* RUS will use the Borrower's year end filed Financial and Operating Report Electric Distribution (formerly known as the RUS Form 7) or the Financial and Operating Report Electric Power Supply (formerly known as the RUS Form 12) unless the borrower has failed to meet its applicable financial ratios, as required by its security instrument and loan contract. The reports are required to be filed electronically in the agency's Data Collection System. If the borrower's financial requirements have not been met, RUS will require a current Financial and Operating Report to be submitted with the loan application, which shall contain the most recent data available and shall not be more than 60 days old when received by RUS. In addition, for those borrowers not meeting their financial ratios, the following information shall also be provided as part of the loan application:

(i) Any other information required to be submitted by RUS;

(ii) A Plan to meet their Financial Ratios;

(iii) The Date of the Borrower's last rate change and the amount/percentage of that rate change;

(iv) A list of any Subsidiaries along with a brief summary identifying the purpose of each subsidiary and identify the percentage interest in each if less than 100%;

(v) If the issues with the Borrower not meeting its financial ratios involves the subsidiary or equity investment losses a business plan and exit strategy shall be provided;

(vi) An updated Financial and Operating Report within 60 days of actual loan approval which will be requested by RUS and can be submitted later.

(6) *Load Forecast Study.* A current Load Forecast Study will be included in the loan application which is not more than 2 years old when the loan application is submitted unless the borrower is a member of a Power Supplier which only completes a Load Forecast once every 3 years. In that case the Load Forecast shall not be more than 3 years old when the loan application is submitted.

(7) *Long Range Financial Forecast and assumptions.* Along with the loan application, the borrower shall submit to RUS a Long-Range Financial Forecast (LRFF) that meets the requirements of subpart G of this part in a form acceptable to RUS. The forecast shall include any sensitivity analysis and/or analysis of alternative scenarios only if requested by the RUS General Field Representative.

(8) *Rate disparity and consumer income data.* If the borrower is applying under the rate disparity and consumer income tests for either a municipal rate loan subject to the interest rate cap or a hardship rate loan, the application must provide a breakdown of residential consumers either by county or by census tract. In addition, if the borrower serves in 2 or more states, the application must include a breakdown of all ultimate consumers by state. This breakdown may be a copy of Form EIA 861 submitted by the Borrower to the Department of Energy or in a similar form. See 7 CFR 1714.7(b) and 1714.8(a). To expedite the processing of loan applications, RUS strongly encourages distribution borrowers to provide this information to the GFR prior to submitting the application.

(9) *Standard Form 100—Equal Employment Opportunity Employer Report EEO—1.* This form, required by the Department of Labor, sets forth employment data for borrowers with 100 or more employees. A copy of this form, as submitted to the Department of Labor, is to be included in the application for an insured loan if the borrower has more than 100 employees. See § 1710.122.

(10) *Form AD-1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.* This statement certifies that the borrower will comply with certain regulations on debarment and suspension required by Executive Order 12549, Debarment and Suspension (3 CFR, 1986 Comp., p. 189). See 2 CFR 417, and § 1710.123 of this part.

(11) *Uniform Relocation Act assurance statement.* This assurance, which need not be resubmitted if previously submitted, provides that the borrower shall comply with 49 CFR part 24,

§ 1710.501

7 CFR Ch. XVI (1–1–21 Edition)

which implements the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended by the Uniform Relocation Act Amendments of 1987 and 1991. See § 1710.124.

(12) *Lobbying.* The following information on lobbying is required pursuant to 2 CFR 418, and § 1710.125. Borrowers applying for both insured and guaranteed financing should consult RUS before submitting this information.

(13) *Federal debt delinquency requirements.* See § 1710.126. The following documents are required:

(i) *Report on Federal debt delinquency.* This report indicates whether or not a borrower is delinquent on any Federal debt.

(ii) *Certification regarding Federal Government collection options.* This statement certifies that a borrower has been informed of the collection options the Federal Government may use to collect delinquent debt. The Federal Government is authorized by law to take any or all of the following actions in the event that a borrower's loan payments become delinquent or the borrower defaults on its loans:

(A) Report the borrower's delinquent account to a credit bureau;

(B) Assess additional interest and penalty charges for the period of time that payment is not made;

(C) Assess charges to cover additional administrative costs incurred by the Government to service the borrower's account;

(D) Offset amounts owed directly or indirectly to the borrower under other Federal programs;

(E) Refer the borrower's debt to the Internal Revenue Service for offset against any amount owed to the borrower as an income tax refund;

(F) Refer the borrower's account to a private collection agency to collect the amount due; and

(G) Refer the borrower's account to the Department of Justice for collection.

(14) *Assurance regarding Felony Conviction (AD Form 3030).* This form must be included with each application to document the status regarding a felony criminal violation and status of any unpaid federal tax liability;

(15) *RD Form 400–4, Assurance Agreement.* This form provides assurance to USDA that recipients of federal financial assistance are in compliance with Title VI of the Civil Rights Act of 1964, 7 CFR part 15 and other agency regulations;

(16) *Seismic safety certifications.* This certification shall be included, if required under 7 CFR part 1792.

(17) *Other forms.* Other forms as required by law or as requested.

(b) *New or returning borrowers.* In addition to the items in paragraph (a) of this section, applications for loans submitted by new or returning borrowers shall include the items listed in this paragraph (b).

(1) A copy of the Borrower's Current Bylaws;

(2) Identify the Borrower's Type of Organizational Structure and a copy of their Articles of Incorporation;

(3) Provide evidence of where Borrower is registered to do business;

(4) Copies of the Borrower's Audited GAAP financials for the past 1–3 years, if available or other financial information, as requested on a case by case basis;

(5) A list of any secured outstanding debt including the amount and name of lender;

(6) Evidence of Collateral and/or its ability to pledge such collateral;

(7) An Attorney Opinion for the Borrower including the counties served, a property schedule, the state of incorporation, any pending litigation, the corporate debt limit, the Borrower's legal name and type of legal organization, and the borrower's legal authority to pledge its collateral or other assets.

(8) Copies of the Borrower's Power Supply Contracts and arrangements (including wholesale rate contracts);

(9) Competitive position information including its rates and rate disparity between neighboring utilities;

(10) Construction Work Plan and/or Engineering Power Cost Study, if not previously submitted;

(11) An Environmental Report related to the facilities for which financing is being requested, if not previously submitted.

(c) *Power Supply Borrowers.* In addition to the loan application, consisting of the documents required by paragraph (a) or (b) of this section, Power

Department of Agriculture

§ 1710.505

Supply Borrowers must also provide RUS with the following:

(1) Information on its Power Supply arrangements and/or wholesale power contracts including the maturity dates. Please note copies of the contracts may be requested on a case by cases basis;

(2) A Profile of the Power Supply Borrowers' fuel supply arrangements;

(3) The Borrowers Load Resource Table;

(4) Information on its Transmission and Interconnection arrangements. Please note that copies of the contracts related to such arrangements may be requested on a case by case basis;

(5) The Power Supply Borrowers' New/Returning membership chart profile and relationships as applicable.

(d) *Submission of documents.* (1) Generally, all information required by paragraphs (a), (b), and (c) of this section is submitted to RUS in a single application. Borrowers may be eligible to submit their loan application via RUS' electronic application intake system instead of submitting hard copies of the loan applications. Please contact your respective General Field Representative or RUS Headquarters to determine if you are eligible to utilize the electronic system.

(2) To facilitate loan review, RUS urges borrowers to ensure that their applications contain all of the information required by this section before submitting the application to RUS. Borrowers may consult with RUS field representatives and headquarters staff as necessary for assistance in preparing loan applications.

(3) RUS may, in its discretion, return an application to the borrower if the application is not materially complete to the satisfaction of RUS within 10 months of receipt of any of the items listed in paragraph (a) or (b) of this section. RUS will generally advise the borrower in writing at least 2 months prior to returning the application as to the elements of the application that are not complete.

(4) If an application is returned, an application for the same loan purposes will be accepted by RUS if satisfactory evidence is provided that all of the information required by this section will

be submitted to RUS within a reasonable time. An application for loan purposes included in an application previously returned to the borrower will be treated as an entirely new application.

(e) *Complete applications.* An application is complete when all information required by RUS to approve a loan is materially complete in form and substance satisfactory to RUS.

(f) *Change in borrower circumstances.* A borrower shall, after submitting a loan application, promptly notify RUS of any changes in its circumstances that materially affect the information contained in the loan application or in the primary support documents.

(g) *Interest rate category.* For pending loans, RUS will promptly notify the borrower if its eligibility for an interest rate category changes pursuant to new information from the Department of Energy or the Bureau of the Census. See 7 CFR part 1714.

(Approved by the Office of Management and Budget under control numbers 0572-0017, 0572-0032 and 0572-1013)

[60 FR 3731, Jan. 19, 1995. Redesignated at 78 FR 73366, Dec. 5, 2013, as amended at 79 FR 76002, Dec. 19, 2014; 81 FR 11026, Mar. 2, 2016; 84 FR 32613, July 9, 2019]

§§ 1710.502–1710.503 [Reserved]

§ 1710.504 Additional requirements.

Additional requirements for insured electric loans are set forth in 7 CFR part 1714.

[60 FR 3731, Jan. 19, 1995. Redesignated at 78 FR 73366, Dec. 5, 2013]

§ 1710.505 Supplemental financing documents.

(a) The borrower is responsible for ensuring that the loan documents required for supplemental financing pursuant to §1710.110 are executed in a timely fashion. These documents are subject to RUS approval.

(b) Security. Any security offered by the borrower to a supplemental lender is subject to RUS approval.

[60 FR 3731, Jan. 19, 1995. Redesignated at 78 FR 73366, Dec. 5, 2013]

§ 1710.506

§ 1710.506 Loan approval.

(a) A loan is approved when the Administrator signs the administrative findings.

(b) If the loan is not approved, RUS will notify the borrower of the reason.

[60 FR 3731, Jan. 19, 1995. Redesignated at 78 FR 73366, Dec. 5, 2013]

§ 1710.507 Loan documents.

Following approval of a loan, RUS will forward the loan documents to the borrower for execution, delivery, recording, and filing, as directed by RUS.

[60 FR 3731, Jan. 19, 1995. Redesignated at 78 FR 73366, Dec. 5, 2013]

PART 1714—PRE-LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS

Subpart A—General

Sec.

1714.1 [Reserved]

1714.2 Definitions.

1714.3 Applicability of provisions.

1714.4 Interest rates.

1714.5 Determination of interest rates on municipal rate loans.

1714.6 Interest rate term.

1714.7 Interest rate cap.

1714.8 Hardship rate loans.

1714.9 Prepayment of insured loans.

1714.10–1714.49 [Reserved]

Subpart B—Terms of Insured Loans

1714.50–1714.54 [Reserved]

1714.55 Advance of funds from insured loans.

1714.56 Fund advance period.

1714.57 Sequence of advances.

1714.58 Amortization of principal.

1714.59 Rescission of loans.

AUTHORITY: 7 U.S.C. 901 *et seq.*; 1921 *et seq.*; and 6941 *et seq.*

SOURCE: 58 FR 66260, Dec. 20, 1993, unless otherwise noted.

Subpart A—General

§ 1714.1 [Reserved]

§ 1714.2 Definitions.

The definitions set forth in 7 CFR 1710.2 are applicable to this part, unless otherwise stated. References to specific RUS forms and other RUS documents, and to specific sections of such forms and documents, shall include the cor-

7 CFR Ch. XVI (1–1–21 Edition)

responding forms, documents, sections and lines in any subsequent revisions of these forms and documents.

§ 1714.3 Applicability of provisions.

(a) *Insured electric loans approved on or after November 1, 1993.* On November 1, 1993, the Rural Electrification Loan Restructuring Act, Pub. L. 103–129, 107 Stat. 1356, (RELRA) amended the Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*, (RE Act) to establish a new interest rate structure for insured electric loans. Insured electric loans approved on or after this date, are either municipal rate loans or hardship rate loans. Borrowers meeting the criteria set forth in § 1714.8 are eligible for 5 percent hardship rate loans. The interest rate on loans to other borrowers is the municipal interest rate, and borrowers meeting the criteria set forth in § 1714.7 are eligible for the interest rate cap on their municipal rate loans. Interest rates for the initial interest rate term and rollover terms (§ 1714.6) will be determined pursuant to § 1714.4. Provisions for prepayment are set forth in § 1714.9. The provisions of this subpart apply to loans approved on or after November 1, 1993, unless otherwise stated.

(b) *Insured electric loans approved prior to November 1, 1993.* These loans have a single interest rate applicable to the entire loan. The rate is generally 5 percent, but, in some cases, may be as low as 2 percent. These loans have a single interest rate term and may be prepaid at face value at any time. Provisions for discounted prepayment of these loans are set forth in 7 CFR part 1786.

§ 1714.4 Interest rates.

(a) *Municipal rate loans.* Each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. All interest rates applicable to municipal rate loans will be increased by one eighth of one percent (0.125 percent), if the borrower elects to include in the loan agreement a prepayment option (call provision), allowing the borrower to prepay all or a portion of an advance on a date other than a rollover maturity date. However, no interest rate for any advances of a loan to a borrower who qualifies for the interest rate cap may exceed 7 percent.